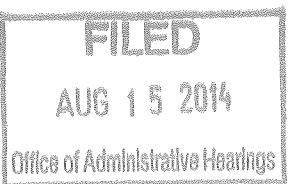


**COMMONWEALTH OF KENTUCKY  
ENERGY AND ENVIRONMENT CABINET**



**FILE NOS.**

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CBA-29690	FCO-44431	FCO-44762	FOV-44195	FOV-44431
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CCA-43221	FCO-44434	FCO-44774	FOV-44198	FOV-44434
CCA-44919	FCO-44439	FCO-44777	FOV-44199	FOV-44435
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### CESSATION ORDER NOS.

CO 23-0031	CO 23-0282	CO 23-0666	CO 43-0595	CO 53-0530
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A&G COAL COMPANY, BEECH CREEK COAL,  
FOUR STAR RESOURCES, GREENTHORN, LLC,  
INFINITY ENERGY, KENTUCKY FUEL CORPORATION,  
SEQUOIA ENERGY, STRONG BROTHERS MINING, and  
VIRGINIA FUEL CORPORATION PETITIONERS

VS. **AGREED ORDER**

ENERGY AND ENVIRONMENT CABINET RESPONDENT

**I. IDENTIFICATION OF PARTIES**

**WHEREAS**, the Respondent, the Energy and Environment Cabinet, Department for Natural Resources (the “Cabinet”), is charged with the statutory duty of enforcing KRS Chapter 350 and the regulations adopted pursuant thereto;

**WHEREAS**, the companies identified in the caption above and described below are referred to collectively as the Justice entities (hereinafter “Justice” or “Petitioners”) because each company shares common ownership or control links with Mr. James C. Justice, II, or has become closely associated with such a company on certain Kentucky underground or surface mining permits.

**II. SUBJECT COMPANIES, PERMITS & ENFORCEMENT ACTIONS**

**a. A&G COAL CORPORATION**

**WHEREAS**, the Petitioner, A & G Coal Corporation (hereinafter “A & G”) is a Virginia corporation with a known address of Post Office Box 1010, Wise, Virginia 24293, a principal office at 302 South Jefferson Street, Roanoke, Virginia 24011, and a registered agent of CT Corporation, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601. A & G is authorized to conduct coal mining operations in the Commonwealth of Kentucky, and at all times pertinent to these actions transacted business in the Commonwealth of Kentucky;

WHEREAS, A & G is authorized to conduct coal mining operations through the Cabinet's issuance of Permit No. 867-0498, and is the current permittee and operator of this permit;

WHEREAS, the following Notices of Non-Compliance (hereinafter "NCs") and Cessation Orders (hereinafter "COs") have been issued for violations on Permit No. 867-0498: NC No. 53-3559 and CO No. 53-0393 (the subject of PAC/PAH/FCO/FOV-44137 and Franklin Circuit Court Action 14-CI-00847), NC No. 53-3645 and CO No. 53-0534 (the subject of PAC/FCO/FOV-44663), NC No. 53-3652 and CO No. 53-0550 (the subject of PAC/FCO-45071), NC No. 53-3847 and CO No. 53-0570 (the subject of PAC/FCO-45490), NC No. 53-3048, NC No. 53-3853 (the subject of PAC-45533), NC No. 53-3583 and CO No. 53-0394 (the subject of PAC/FCO/FOV-44357 and Franklin Circuit Court Action 14-CI-00847), NC No. 53-3649 and CO No. 53-0530 (the subject of PAC/FCO-44845), NC No. 53-3670 (the subject of PAC-45055), and NC No. 53-3688 (the subject of PAC-45138);

**b. BEECH CREEK COAL (KENTUCKY FUEL, OPERATOR)**

WHEREAS, Beech Creek Coal (hereinafter "Beech Creek") is a Kentucky limited liability company with a known address of 32601 Highway 194 E, Phelps, Kentucky 41533, and a registered agent of W. Keith Hall at that address. Beech Creek is authorized to conduct coal mining operations in the Commonwealth of Kentucky, and at all times pertinent to these actions transacted business in the Commonwealth of Kentucky;

WHEREAS, Beech Creek is authorized to conduct coal mining operations through the Cabinet's issuance of Permit No. 898-0775;

WHEREAS, the approved operator on Permit No. 898-0775 is Kentucky Fuel Corporation, a Justice entity;

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 898-0775: NC No. 53-3282 and CO No. 53-0490 (the subject of PAC/FCO-44778); NC No. 53-3766; NC No. 53-3774; NC No. 53-3996; NC No. 53-1813 (the subject of PAC/PAH-44790); NC No. 53-3760 and CO No. 53-0489 (the subject of PAC/PAH/FCO-44777); NC No. 53-3761 (the subject of PAC/FOV/PAH-44776); NC No. 53-3789; NC No. 53-3790; NC No. 53-2038 and CO No. 53-0868 (the subject of PAC/PAH -44038); NC No. 53-2664 and CO No. 53-0078 (the subject of PAC-44919); NC No. 53-1347 (the subject of PAC/PAH/FOV-44203); NC No. 53-3276 (the subject of PAC/PAH/FOV-44354); and NC No. 53-3612 (the subject of PAC/PAH/FOV-44627);

**c. FOUR STAR RESOURCES**

**WHEREAS**, the Petitioner, Four Star Resources (hereinafter “Four Star”) is a Kentucky limited liability company with a known address of Post Office Box 838, Middlesboro, Kentucky 40965, a principal office at 302 South Jefferson Street, Roanoke, Virginia 24011, and a registered agent of CT Corporation, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601. Four Star is authorized to conduct coal mining operations in the Commonwealth of Kentucky, and at all times pertinent to these actions transacted business in the Commonwealth of Kentucky;

**WHEREAS**, Four Star is authorized to conduct coal mining operations through the Cabinet’s issuance of Permit Nos. 848-0249, 848-0277, 848-0278, and 848-7027, and is the current permittee and operator on these permits;

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0249: NC No. 23-2564 and CO No. 23-0161 (the subject of PAC/FCO-45072), CO No. 23-0164, and CO No. 23-0311 (the subject of FCO-45072A), NC No. 23-2094 and CO

No. 23-0044 (the subject of PAC/PAH/FCO-44843), NC No. 23-1576 (the subject of PAC/PAH/FOV-44142), NC No. 23-2574 (the subject of PAC-45369), NC No. 23-2711 (the subject of PAC-45597), NC No. 23-2099 (the subject of PAC-44925), NC No. 23-2443 and CO No. 23-0038 (the subject of PAC/FCO/FOV-44489), NC No. 23-2503 (the subject of PAC/FOV-44679), and NC No. 23-2560 and CO No. 23-0041 (the subject of PAC/FCO-44773);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0277: NC No. 23-2565 and CO No. 23-0163 (the subject of PAC/FCO-45153), NC No. 23-2572 (the subject of PAC-45371), NC No. 23-2997 (the subject of PAC-45588), NC No. 23-2444 and CO No. 23-0039 (the subject of PAC/FCO/FOV-44490), and NC No. 23-2521 and CO No. 23-0042 (the subject of PAC/FCO-44774);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0278: NC No. 23-2573 (the subject of PAC-45370), NC No. 23-2712 (the subject of PAC-45595), NC No. 23-2442 and CO No. 23-0040 (the subject of PAC/FCO/FOV-44491), and NC No. 23-2561 and CO No. 23-0043 (the subject of PAC/FCO-44772);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-7027: NC No. 23-2441 and CO No. 23-0162 (the subject of PAC/FCO/FOV-44415), and NC No. 23-2623;

**d. GREENTHORN, LLC**

**WHEREAS**, the Petitioner, Greenthorn, LLC (hereinafter “Greenthorn”) is an inactive Kentucky limited liability company with a known address of Post Office Box 340, London, Kentucky, 40743, and a registered agent of William G. Brown at 420 Tobacco Road, London, Kentucky 40741. Greenthorn was authorized to conduct coal mining operations in the

Commonwealth of Kentucky and at all times pertinent to this action transacted business in the Commonwealth of Kentucky.

**WHEREAS**, was authorized to conduct coal mining operations through the Cabinet's issuance of Permit No. 898-0861. Permit No. 898-0861 was subsequently transferred from Greenthorn to Kentucky Fuel Corporation, becoming Permit No. 898-0884. Prior to the transfer, the approved operator of this permit was Kentucky Fuel;

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 898-0861: NC No. 53-1775 and CO No. 53-0079 (the subject of PAC/PAH/FCO-44130); NC No. 53-2393 and CO No. 53-0526 (the subject of PAC/PAH/FCO-44556); NC No. 53-1328 (the subject of PAC/PAH/FOV-44129); NC No. 53-3291 (the subject of PAC/ FOV-44216); NC No. 53-3381 (the subject of PAC/PAH/FOV-44445; and NC No. 53-3577 (the subject of PAC/PAH/FOV-44628);

**e. INFINITY ENERGY, INC**

**WHEREAS**, the Petitioner, Infinity Energy, Inc. (hereinafter "Infinity") is a Kentucky corporation with a known address of Post Office Box 838, Middlesboro, Kentucky 40965, a principal office at 302 South Jefferson Street, Roanoke, Virginia 24011, and a registered agent of CT Corporation, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601. Infinity Energy is authorized to conduct coal mining operations in the Commonwealth of Kentucky, and at all times pertinent to this action transacted business in the Commonwealth of Kentucky.

**WHEREAS**, Infinity is authorized to conduct coal mining operations in the Commonwealth of Kentucky through the Cabinet's issuance of Permit Nos. 848-0221, 848-0282,

and 848-0283, and at all times pertinent to this action transacted business in the Commonwealth of Kentucky;

**WHEREAS**, Infinity was authorized to conduct coal mining operations in the Commonwealth of Kentucky through the Cabinet's issuance of Permit Nos. 848-0234 and 848-0264. Both of these permits have been granted complete bond releases;

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0221: NC No. 23-3025 (the subject of PAC-45382) and NC No. 23-3030 (the subject of PAC-45599);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0234: NC No. 23-1835 (the subject of PAC/PAH-44463); NC No. 23-1952 (the subject of PAC/PAH-44464); NC No. 23-0935 (the subject of PAC/PAH/FOV-44331); NC No. 23-0229 and CO No. 23-0139 (the subject of PAC-43906); NC No. 23-1729 and CO No. 23-0138 (the subject of PAC/FCO-43807); NC No. 23-1833 and CO No. 23-0140 (the subject of PAC-43981); and NC No. 23-0222 and CO No. 23-0137 (the subject of PAC/FCO-43806);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0264: NC No. 23-0516 and CO No. 23-0141 (the subject of PAC-44086); NC No. 23-0865 and CO No. 23-0128 (the subject of PAC/FCO-43805); NC No. 23-0228 and CO No. 23-0142 (the subject of PAC/FCO-44223); NC No. 23-1692 and CO No. 23-0127 (the subject of PAC/FCO-43804); NC No. 23-1880 (the subject of PAC/PAH-44282); and NC No. 23-0934 (the subject of PAC/PAH/FOV-44333);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0282: NC No. 23-3026 (the subject of PAC-45375); NC No. 23-2375 (the

subject of PAC/FOV-44677); NC No. 23-3031 (the subject of PAC-45600); and NC No. 23-3028 (the subject of PAC-45496);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0283: NC No. 23-2303 and CO No. 23-0144 (the subject of PAC/FCO/FOV-44526); NC No. 23-2305 (the subject of PAC/FOV-44678); NC No. 23-3027 (the subject of PAC-45376); NC No. 23-3032 (the subject of PAC-45582); and NC No. 23-3029 (the subject of PAC-45497);

**f. KENTUCKY FUEL CORPORATION**

**WHEREAS**, the Petitioner, Kentucky Fuel Corporation (hereinafter “Kentucky Fuel” or “KFC”) is a Delaware corporation with a known address of Post Office Box 130, Mousie, Kentucky, 41839, a principal office 302 South Jefferson Street, Roanoke, Virginia 24011, and a registered agent of CT Corporation, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601.

**WHEREAS**, Kentucky Fuel is authorized to conduct coal mining operations in the Commonwealth of Kentucky through the Cabinet’s issuance of Permit Nos. 813-0354, 813-0363, 813-5032, 813-7036, 813-8028, 813-8032, 813-8033, 836-5580, 860-0502, 860-0503, 860-0504, 860-0505, 860-5337, 860-5339, 860-5340, 860-5342, 860-5343, 860-5345, 860-5346, 860-5347, 860-5349, 860-5350, 860-5338, 860-5341, 860-5351, 860-8020, 860-9015, 860-9016, 877-0206, 877-0207, 898-0881, 898-0882, 898-0883, and 898-0884, and at all times pertinent to this action transacted business in the Commonwealth of Kentucky.

**WHEREAS**, the following NCs have been issued for violations on Permit No. 813-0363: NC No. 63-2446 (the subject of PAC/FOV-44447) and NC No. 63-2714 (the subject of PAC-44998);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 813-5032: NC No. 63-2707 (the subject of PAC/FOV-44775), NC No. 63-2317 (the subject of PAC/FOV-44441), and NC No. 63-2713 (the subject of PAC-44999);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 813-7036: NC No. 63-2624 (the subject of PAC/FOV-44740) and CO No. 63-0047 (the subject of PAC/FOV-44740), NC No. 63-2554 and CO No. 43-0970, NC No. 63-2504 (the subject of PAC-45400), NC No. 63-2447 (the subject of PAC/FOV-44444) and NC No. 63-2772 (the subject of PAC-45004);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 813-8028: NC No. 63-2024 (the subject of PAC/PAH/FOV-44442) and NC No. 63-2642 (the subject of PAC-45545);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 836-5580: NC No. 43-3014 and NC No. 43-2986 (the subject of PAC-44362);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 813-8032: NC No. 63-2663 (the subject of PAC/FOV-44741) and CO No. 63-0048 (the subject of PAC-44741), NC No. 63-2448 (the subject of PAC-44780), NC No. 63-2512 (the subject of PAC-44562), NC No. 63-2546 and CO No. 63-0044 and CO No. 63-0045 (the subject of PAC/FCO/FOV-44624), NC No. 63-2708 (the subject of PAC/FOV-44844); NC No. 63-2786 and CO No. 63-0050 and CO No. 63-0205 (the subject of PAC-44985); NC No. 63-2468 (the subject of PAC-45272); NC No. 63-2318 (the subject of PAC-44443); NC 63-2579 and CO No. 63-0046 (the subject of PAC/FOV-44732); NC No. 63-2580 (the subject of FOV/PAC-44739); NC No. 63-2711 (the subject of PAC-45000); NC No. 63-2163 (the subject of PAC-45050);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 813-8033: NC No. 63-2664 and CO No. 63-0049 (the subject of PAC/FOV-44742); NC No. 63-2340 (the subject of PAC/FOV-44446); and NC 63-2712 (the subject of PAC/FOV-45001);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-5339: NC No. 43-2859 and CO No. 43-0428 (the subject of PAC/FCO-44449); NC No. 43-3229; and NC No. 43-3128 and CO No. 43-0851 (the subject of PAC/FOV/FCO-44433);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-0503: NC No. 43-3131 (the subject of PAC/FOV-44437); NC No. 43-3226 (the subject of PAC-45125); NC No. 43-3227 (the subject of PAC-45343), NC No. 43-3235, and NC 43-2913 (the subject of PAC-44593);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-0502: NC No. 43-3419; NC No. 43-2816 (the subject of PAC-44169); NC No. 43-3100 (the subject of PAC/FOV-44263), and NC No. 43-3153 and CO No. 43-0860 (the subject of PAC/FCO/FOV-44439);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-0504: NC No. 43-3423, NC No. 43-3122 (the subject of PAC/FOV-44267); and NC No. 43-3171 (the subject of PAC/FOV-44519);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5343: NC No. 43-3250 and NC No. 43-2911 (the subject of PAC/FOV-44214);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5337: NC No. 43-3420 and NC No. 43-3099 (the subject of PAC/FOV-44262);

**WHEREAS**, the following NC has been issued for violations on Permit No. 860-5338: NC No. 43-3073;

**WHEREAS**, the following NC has been issued for violations on Permit No. 860-5341: NC No. 43-3236;

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5340: NC No. 43-3230, NC No. 43-3093 (PAC/FOV-44259) and NC No. 43-3211 (the subject of PAC/FOV-44520);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5347: NC No. 43-3231, NC No. 43-3096 (PAC/FOV-44260) and NC No. 43-3212 (the subject of PAC/FOV-44521);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-0505: NC No. 43-1535 and CO No. 43-0429 (the subject of PAC/FCO-44451); NC No. 43-1785 and CO No. 43-0405 (the subject of PAC/PAH-44361); NC No. 43-2008 and CO No. 43-0407 (the subject of PAC/PAH-44301); NC No. 43-2858 and CO No. 43-0620 (the subject of PAC/PAH/FCO-44450); NC No. 43-3435; NC No. 43-3098 and CO No. 43-0859 (the subject of PAC/FCO/FOV-44265); NC No. 43-2805 (the subject of PAC-44300); and NC No. 43-3129 and CO No. 43-0850 (the subject of PAC/FCO/FOV-44434);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 877-0207: NC No. 43-1591 and CO No. 43-0587 (the subject of PAC/PAH/FCO/FOV-43422); NC No. 43-2003 and CO No. 43-0569 (the subject of PAC/PAH-43971); NC No. 43-3058 and CO No. 43-0727 (the subject of PAC-45170); NC No. 43-3068 (the subject of PAC-45344); NC No. 43-3421; and NC No. 43-2993 and CO No. 43-0595 (the subject of PAC/FCO/FOV-44432);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 898-0881: NC No. 53-3378 and CO No. 53-0338 and CO No. 53-0416 (the subject of PAC/PAH/FCO-44359 and PAH/FCO-44359A); NC No. 53-3770; NC No. 53-3278 and CO No. 53-0486 (the subject of PAC/PAH/FCO/FOV-44430); NC No. 53-3764 (the subject of PAC-45041); NC No. 53-2056 (the subject of PAC-45624); NC No. 43-2069 and CO No. 53-0485 (the subject of PAC/FCO/PAH-44623); NC No. 53-3289 (the subject of PAC/PAH-44123); and NC No. 53-3532 (the subject of PAC-44529);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 898-0882: NC No. 53-3287 and CO No. 53-0107 (the subject of FCO/FOV-44128); NC No. 53-3769; NC No. 53-3778; NC No. 53-1346 and CO No. 53-0487 (the subject of PAC/PAH/FCO/FOV-44140); NC No. 53-3476 and CO No. 53-0491 (the subject of PAC/FOV-44472); NC No. 53-3765 (the subject of PAC-45040); NC No. 53-3244 (the subject of PAC-44358); NC No. 53-2072; NC No. 53-3773 (the subject of PAC-45126); and NC No. 53-3469 (the subject of PAC/PAH/FOV-44473);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-9015: NC No. 43-3106 (the subject of PAC-45354); NC No. 43-3248 (the subject of PAC-45493); NC No. 43-3272; NC No. 43-2465 (the subject of PAC/FOV-44268); NC No. 43-2877 (the subject of PAC/FOV-44370); NC No. 43-2853 and CO No. 43-0018 (the subject of PAC/FOV-44365); and NC No. 43-3063 (the subject of PAC-44524);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-9016: NC No. 43-3107 (the subject of PAC-45346); NC No. 43-3233 (the subject of PAC-45494); NC No. 43-3273; NC No. 43-1312 (the subject of PAC-44324); NC No. 43-2721 (the subject of PAC/FOV-44269); NC No. 43-2783 and CO No. 43-0017 (the subject

of PAC/FCO-44334); NC No. 43-2920 (the subject of PAC/FOV-44471), NC No. 43-1762 (the subject of PAC/PAH-42959), and NC No. 43-3095 (the subject of PAC/FOV-44525);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 877-0206: NC No. 43-3067 (the subject of PAC-45298); NC No. 43-3422; NC No. 43-1046 (the subject of PAC-44639); and NC No. 43-2992 and CO No. 43-0726 (the subject of PAC/FCO/FOV-44431);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-5342: NC No. 43-2815 and CO No. 43-0621 (the subject of PAC/FCO-44452); NC No. 43-3424; NC No. 43-3121 (the subject of PAC/PAH-44264); and NC No. 43-3154 (the subject of PAC/FCO-44440);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5346: NC No. 43-3251, NC No. 43-3123 (PAC-44336) and NC No. 43-3130 (the subject of PAC/FOV-44436);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-8020: NC No. 43-3228, NC No. 43-3097 (PAC/FOV-44261) and NC No. 43-3210 (the subject of PAC/FOV-44522);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5350: NC No. 43-3234, NC No. 43-2912 (PAC/FOV-44213) and NC No. 43-3132 (the subject of PAC/FOV-44453);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 860-5349: NC No. 43-2939 and CO No. 43-0510 (the subject of PAC/PAH/FCO-44329); NC No. 43-2947 and CO No. 43-1037 (the subject of PAC/FOV-44674); NC No. 43-

2942 and CO No. 43-0514 (the subject of PAC/FCO/FOV-44448); NC No. 43-3539 (the subject of PAC-44321); and NC No. 43-3544;

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5351: NC No. 43-3417, NC No. 43-3133 (PAC/FOV-44438) and NC No. 43-3124 (the subject of PAC/FOV-44328);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 860-5345: NC No. 43-3412, NC No. 43-2190 (PAC/FOV-43421), NC No. 43-2875 (PAC/FOV-44133), NC No. 43-2924 (PAC/FOV-44255), and NC No. 43-3195 (the subject of PAC/FOV-44518);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 898-0883: NC No. 53-2053 and CO No. 53-0109 (the subject of PAC/PAH/FCO-44330); NC No. 53-3767; NC No. 53-3286 and CO No. 53-0415 (the subject of PAC/PAH/FCO-44470); NC No. 53-2260 (the subject of PAC-44625); NC No. 53-3288 and CO No. 53-0108 (the subject of PAC/PAH/FCO-44141); and NC No. 53-3328 (the subject of PAC/PAH/FOV-44435);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 898-0884: NC No. 53-3768; NC No. 53-3654; and NC No. 53-2026 (the subject of PAC/FOV-44738);

**WHEREAS**, the following NCs have been issued for violations on Permit No. 813-0354: NC No. 63-2643 and NC No. 63-2640` (the subject of PAC-45546);

**WHEREAS**, Kentucky Fuel is the approved operator on Permit Nos. 813-0260, 898-0861, and 898-0775;

**g. SEQUOIA ENERGY, LLC**

**WHEREAS**, the Petitioner, Sequoia Energy, LLC (hereinafter “Sequoia”) is a Kentucky limited liability company with known addresses of Post Office Box 838, Middlesboro, Kentucky 40965 and 966 KY 990, Coalgood, Kentucky 40818, a principal office at 302 South Jefferson Street, Roanoke, Virginia 24011, and a registered agent of CT Corporation, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601. Sequoia is authorized to conduct coal mining operations in the Commonwealth of Kentucky, and at all times pertinent to this action transacted business in the Commonwealth of Kentucky;

**WHEREAS**, Sequoia is authorized to conduct coal mining operations through the Cabinet’s issuance of Permit Nos. 848-0230, 848-0270, 848-0273, 848-0274, 848-0275, 848-5459, 848-5460, 848-5462, 848-5463, 848-5485, 848-7024, 848-8069, 848-8076, 848-9022, 848-9025, 866-5151, and 866-5152. Sequoia is the current permittee and operator on these permits;

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0230: NC No. 23-2023 (the subject of PAC/FOV-44194); NC No. 23-2166 and CO No. 23-0699 (the subject of PAC/FCO/FOV-44554), NC No. 23-3051 (the subject of PAC-45456), and NC No. 23-3150 (the subject of PAC-45598);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0270: NC No. 23-0392 and CO 23-0032 (the subject of PAC/FCO-44138), NC No. 23-0610 (the subject of PAC-44038), NC No. 23-1064 and CO No. 23-0036 (the subject of PAC/FCO-44191), NC No. 23-1388 and CO No. 23-0034 (the subject of PAC/FCO-44192), NC No. 23-1409 (the subject of PAC/FCO-44189), NC No. 23-1798 and CO No. 23-0031 (the subject of PAC/FCO-43802), NC No. 23-1800 (the subject of PAC/CCA-42745), NC No. 23-1978 (the subject of PPA/CCA-42941), NC No. 23-2037 and CO No. 23-0035 (the subject of

PAC/FCO-44190), NC No. 23-2075 (the subject of FOV-44188), NC No. 23-1964 and CO Nos. 23-0037 and 23-0045 (the subject of PAC/FCO-44730), NC No. 23-2578 (the subject of PAC-45368), NC No. 23-2621 and CO No. 23-0165 (the subject of FCO-45489), NC No. 23-2998 (the subject of PAC-45576);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0271: NC No. 23-2267 (the subject of FOV-44195), NC No. 23-2993 (the subject of PAC-45591) and NC No. 23-3059 (the subject of PAC-45389);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0273: NC No. 23-2378 (the subject of FOV-44196), NC No. 23-2387 and CO No. 23-0587 (the subject of PAC/PAH/FOV-44747), NC No. 23-2858 (the subject of PAC-45444), NC No. 23-2994 (the subject of PAC-45592);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0274: NC No. 23-1951 (the subject of PAC/CCA-42855), NC No. 23-2078 (the subject of PAC/FOV-44197), NC No. 23-2365 and CO No. 23-0697 (the subject of PAC/FCO/FOV-44728), NC No. 23-2854 (the subject of PAC-45441), NC No. 23-2864 (the subject of PAC-45583), and NC No. 23-3050 and CO No. 23-0712 (the subject of PAC-45130);

**WHEREAS**, the following NCs and COs have been issued for violations on Permit No. 848-0275: NC No. 23-1935 (the subject of PAC-43517), NC No. 23-2060 (the subject of PAC/CCA-43248), NC No. 23-2344 (the subject of PAC-44178), NC No. 23-2851 and CO Nos. 23-0368 (the subject of PAC/FCO-45088) and 23-0713, NC No. 23-2855 (the subject of PAC-45372), and NC No. 23-2861 (the subject of PAC-45584);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5459: NC No. 23-1936 (the subject of PAC/CCA-42818), NC No. 23-2039 (the subject of PAC-

43765), NC No. 23-2076 (the subject of PAC/FOV-44198), NC No. 23-2367 and CO No. 23-0709 (the subject of PAC/FOV-44746), NC No. 23-2865 (the subject of PAC-45585), NC No. 23-3052 (the subject of PAC-45502), and NC No. 23-3151;

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5460: NC No. 23-1993 (the subject of PAC-43774), NC No. 23-1563 and CO No. 23-0698 (the subject of PAC/FCO/FOV-44727), and NC No. 23-2866 (the subject of PAC-45586);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5461: NC No. 23-0508 (the subject of PAC-43559), NC No. 23-1375 (the subject of PAC-43741), NC No. 23-1974 (the subject of PAC/CCA-42854), NC No. 23-2164 (the subject of PAC/FOV-44199), NC No. 23-2927 (the subject of PAC-45593), and NC No. 23-3057 (the subject of PAC-45386);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5462: NC No. 23-0609 (the subject of PAC-43560), NC No. 23-1973 (the subject of PAC/CCA-42814), NC No. 23-2165 (the subject of PAC/FOV-44200), NC No. 23-2167 and CO Nos. 23-0708 (the subject of PAC/FCO/FOV-44555) and 23-0710 (the subject of PAH-44555A), NC No. 23-2957 (the subject of PAC-45594), and NC No. 23-3060 (the subject of PAC-45439);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5463: NC No. 23-0936 (the subject of PAC/FOV-44193), NC No. 23-1087 (the subject of PAC/FOV-44355), NC No. 23-1809 (the subject of PAC-43442), NC No. 23-1922 (the subject of PAC-43518), NC No. 23-2046 (the subject of PAC-43893), NC No. 23-1531 (the subject of PAC-44796), NC No. 23-1570 and CO No. 23-0444 (the subject of PAC-45158), NC No. 23-1976 and CO No. 23-0443 (the subject of PAC/PAH/FCO-44930), NC No. 23-2041 and CO No. 23-0442 (the subject of PAC/FCO-44931), NC No. 23-2849 (the subject of PAC-45145), NC

No. 23-2852 (the subject of PAC-45264), NC No. 23-2853 (the subject of PAC-45394), and NC No. 23-2860 (the subject of PAC-45587);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5466: NC No. 23-2967 (the subject of PAC-45596), and NC No. 23-3056 (the subject of PAC-45384);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-5485: NC No. 23-2077 (the subject of FOV-44201), NC No. 23-2282 and CO No. 23-0707 (the subject of PAC/FCO/FOV-44523), NC No. 23-2361 (the subject of PAC/FOV-44611), NC No. 23-2862 (the subject of PAC-45589), NC No. 23-3053 (the subject of PAC-45499);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-7024: NC No. 23-1513 and CO No. 23-0706 (the subject of PAC/FCO-44932), NC No. 23-2863 (the subject of PAC-45590), and NC No. 23-3054 (the subject of PAC-45383);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-8069: NC No. 23-1828 (the subject of PAC/CCA-42817);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-8076: NC No. 23-0937 (the subject of PAC/FOV-44224), NC No. 23-1992 (the subject of PAC-43579), NC No. 23-2019 (the subject of PAC-43834), NC No. 23-2056 (the subject of PAC-43851), NC No. 23-2345 (the subject of PAC-44088), NC No. 23-1582 (the subject of PAC/FOV-44745), NC No. 23-2285 (the subject of PAC/FOV-44612), NC No. 23-2366 (the subject of PAC-44681), NC No. 23-2464 (the subject of PAC-45603), and NC No. 23-3055 (the subject of PAC-45377);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-8077: NC No. 23-2463 (the subject of PAC-45601), NC No. 23-2850 (the subject of PAC-45146), and NC No. 23-2857 (the subject of PAC-45374);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-9022: NC No. 23-0113 (the subject of PAC/CCA-41867);

**WHEREAS**, the following NCs and COs have been issued for violations on 848-9025: NC No. 23-1961 (the subject of PAC-43618), NC No. 23-2020 (the subject of PAC-43896), NC No. 23-2040 (the subject of PAC/CCA-43138), NC No. 23-2111 (the subject of PAC-43775), NC No. 23-2155 (the subject of PAC-43955), NC No. 23-2338 (the subject of PAC-44014), NC No. 23-2346, Imminent Danger CO No. 23-0282 (the subject of PAC/FOV-44363), NC No. 23-2283 (the subject of PAC/FOV-44609), NC No. 23-2339 and CO No. 23-0705 (the subject of PAC/FCO-44926), NC No. 23-2388 and CO No. 23-0711 (the subject of PAC/PAH-45054), NC No. 23-2598 (the subject of PAC-45604), and NC No. 23-3058 (the subject of PAC-45387);

**WHEREAS**, the following NCs and COs have been issued for violations on 866-5151: NC No. 63-2594 (the subject of PAC-45367), NC No. 63-2596, and NC No. 63-2649 and CO No. 63-0539 (the subject of PAC/FCO-45051);

**WHEREAS**, the following NCs and COs have been issued for violations on 866-5152: NC No. 63-0798 and CO No. 63-0440 (the subject of PAC/FCO-43801A) and CO No. 63-0393 (the subject of PAC/FCO-43801), NC No. 63-2001 (the subject of PAC-43514), NC No. 63-2326 (the subject of PAC-43957), NC No. 63-2408 (the subject of PAC-43936), NC No. 63-2445 (the subject of PAC-44275), NC No. 63-2521 (the subject of PAC/FOV-44356) NC No. 63-2650 and CO No. 63-0544 (the subject of PAC/FCO-45074), NC No. 63-2508 and CO Nos.

63-0441 (the subject of PAC/FCO/FOV-44332) and 63-0443 (the subject of FCO-44332A), NC No. 63-2668 and CO No. 63-0599 (the subject of PAC/FCO-45152), NC No. 63-2753, NC No. 63-2597 (the subject of PAC-45566), NC No. 63-2550 and CO No. 63-0497 (the subject of PAC/FCO/FOV-44729 and FCO-44729A), NC No. 63-2558 (the subject of PAC/FOV-44748), and NC No. 63-2741 (the subject of PAC-45118);

**h. STRONG BROTHERS (KENTUCKY FUEL, OPERATOR)**

**WHEREAS**, Strong Brothers Mining (hereinafter “Strong Brothers”) is a sole proprietorship with an address at 25 Little Creek Road, Jackson, Kentucky 41339 whose business includes the mining of coal;

**WHEREAS**, Strong Brothers is authorized to conduct coal mining operations through the Cabinet’s issuance of Permit No. 813-0260;

**WHEREAS**, the approved operator on Permit No. 813-0260 is Kentucky Fuel, a Justice entity;

**WHEREAS**, the following NCs and COs have been issued for violations on 813-0260: NC No. 63-2131 and CO No. 63-0259 (the subject of ACC/PAC/PAH/FCO-43377 and Franklin Circuit Court action 13-CI-01386), NC No. 63-2289 and CO No. 63-0298 (the subject of PAC/PAH/FCO-45069), NC No. 63-1959 and CO No. 63-0296 (the subject of PAC/PAH/FCO/FOV-44036), NC No. 63-2025 (the subject of PAC/FOV-44517), NC No. 63-2641 (the subject of PAC-45547), NC No. 63-2111 (the subject of PAC-44996), and NC No. 63-2157 and CO No. 63-0297 (the subject of PAC/FCO-45070);

**i. VIRGINIA FUEL CORPORATION**

**WHEREAS**, the Petitioner, Virginia Fuel Corporation (hereinafter “Virginia Fuel”) is a Virginia corporation with a known address of Post Office Box 3499, Wise, Virginia

24293, a principal office at 302 South Jefferson Street, Roanoke, Virginia 24011, and a registered agent of CT Corporation, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601. Virginia Fuel is authorized to conduct surface mining operations in the Commonwealth of Kentucky, and at all times pertinent to this action transacted business in the Commonwealth of Kentucky.

**WHEREAS**, Virginia Fuel is authorized to conduct coal mining operations in the Commonwealth of Kentucky through the Cabinet's issuance of Permit Nos. 848-0315, 848-0316, 848-0317, 848-5505, 848-5506, 848-5507, 848-5508, 848-5509, 848-5510, 848-5511, 848-5512, 848-5513, 848-7036, 848-8082, and 848-9028, and at all times pertinent to this action transacted business in the Commonwealth of Kentucky;

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-0315: NC No. 23-2985 and CO No. 23-0669 and CO No. 23-0670 (the subject of PAC/FCO-45073 and FCO-45073A); NC No. 23-2980 (the subject of PAC-45012); NC No. 23-3144 (the subject of PAC/FCO-45607); NC No. 23-3114 (the subject of PAC-45440); and NC No. 23-2751 and CO No. 23-0507 (the subject of PAC/FCO-44758);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-0316: NC No. 23-2476 and CO No. 23-0660 (the subject of PAC/PAH/FOV-44608); NC No. 23-2760 and CO No. 23-0665 (the subject of PAC/PAH-45053); NC No. 23-2762 (the subject of PAC -45013); NC No. 23-2987 (the subject of PAC-45127); NC No. 23-3145 (the subject of PAC-45608); NC No. 23-3115 (the subject of PAC-45442); and NC No. 23-2752 and CO No. 23-0508 (the subject of PAC/FCO-44759);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-0317: NC No. 23-2765 (the subject of PAC-45021); NC No. 23-3117 (the

subject of PAC-45392); NC No. 23-3186 (the subject of PAC-45541); and NC No. 23-2756 and CO No. 23-0497 (the subject of PAC/FCO-44762);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5505: NC No. 23-2761 (the subject of PAC-45014); NC No. 23-3183 (the subject of PAC-45537); NC No. 23-3106 (the subject of PAC-45443); and NC No. 23-2743 and CO No. 23-0498 (the subject of PAC/FCO-44750);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5506: NC No. 23-2982 (the subject of PAC-45029); NC No. 23-3110 (the subject of PAC-45391); NC No. 23-3146 (the subject of PAC-45538); NC No. 23-2748 and CO No. 23-0503 (the subject of PAC/FCO-44755); and NC No. 23-2758 (the subject of PAC/FOV-44842);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5507: NC No. 23-2976 (the subject of PAC-45025); NC No. 23-3112 (the subject of PAC-45356); NC No. 23-3187 (the subject of PAC-45542); and NC No. 23-2750 and CO No. 23-0506 (the subject of PAC/FCO-44757);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5508: NC No. 23-2973 (the subject of PAC-45022); NC No. 23-3184 (the subject of PAC-45359); NC No. 23-3107 (the subject of PAC-45358); and NC No. 23-2744 and CO No. 23-0499 (the subject of PAC/FCO-44751);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5509: NC No. 23-2974 (the subject of PAC-45023); NC No. 23-3108 (the subject of PAC-45404); NC No. 23-3121; and NC No. 23-2745 and CO No. 23-0500 (the subject of PAC/FCO-44752);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5510: NC No. 23-2741 and CO No. 23-0661 (the subject of PAC/PAH/FOV-44675); NC No. 23-2981 (the subject of PAC-45030); NC No. 23-2983 and CO No. 23-0666 (the subject of PAC-45087); NC No. 23-3168 (the subject of PAC-45536); NC No. 23-3082 (the subject of PAC-45485); NC No. 23-3119 (the subject of PAC-45435); and NC No. 23-2742 and CO No. 23-0504 (the subject of PAC/FCO-44749);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5511: NC No. 23-2975 (the subject of PAC-45024); NC No. 23-3109 (the subject of PAC-45357); NC No. 23-3185 (the subject of PAC-45540); and NC No. 23-2746 and CO No. 23-0501 (the subject of PAC/FCO-44753);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5512: NC No. 23-3011; NC No. 23-2764 (the subject of PAC-45020); NC No. 23-3081 (the subject of PAC-45390); NC No. 23-3182 (the subject of PAC-45535); and NC No. 23-2747 and CO No. 23-0502 (the subject of PAC/FCO-44754);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-5513: NC No. 23-2979 (the subject of PAC-45026); NC No. 23-3111 (the subject of PAC-45393); NC No. 23-3122 (the subject of PAC-45606); NC No. 23-3118 (the subject of PAC-45455); and NC No. 23-2749 and CO No. 23-0505 (the subject of PAC/FCO-44756);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-7036: NC No. 23-2763 (the subject of PAC-45019); NC No. 23-3020 (the subject of PAC-45323); NC No. 23-3188 (the subject of PAC-45602); NC No. 23-2753 and CO No. 23-0509 (the subject of PAC/FCO-44760);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-8082: NC No. 23-1395 and CO No. 23-0664 (the subject of PAC/PAH-45052); NC No. 23-2757 and CO No. 23-0662 and CO No. 23-0663 (the subject of PAC/FOV-44673); NC No. 23-3116 and CO No. 23-0671 (the subject of FCO-45488); NC No. 23-2986 (the subject of PAC-45128); NC No. 23-2977 (the subject of PAC-45027); NC No. 23-3123 (the subject of PAC-45609); NC No. 23-2754 and CO No. 23-0510 (the subject of PAC/FCO/FOV-44676); and NC No. 23-2445 and CO No. 23-0668 (the subject of PAC/FOV-44527);

**WHEREAS**, The following NCs and COs have been issued for violations on Permit No. 848-9028: NC No. 23-2978 (the subject of PAC/PAH-45028); NC No. 23-2984 and CO No. 23-0667 (the subject of PAC/FOV-45129); NC No. 23-3120; NC No. 23-3113 (the subject of PAC-45438); and NC No. 23-2755 and CO No. 23-0511 (the subject of PAC/FCO-44761);

**WHEREAS**, on June 26, 2014, the Commissioner of the Department of Natural Resources Steve Hohmann sent a letter to Justice representative Steve Ball that discussed a multitude of compliance issues on Justice permits. In that letter Commissioner Hohmann identified numerous Justice permits that had been issued conditioned on the diligent abatement of permit conditions which were in violation at that time. As a result, the Commissioner directed the Division of Mine Permits to suspend the following Justice permits as of 8:00AM, Monday, June 30, 2014: 898-0884, 860-0505, 860-8020, 898-0775, 848-0282, 848-0283, 848-8082, and 848-8076. That suspension date has since been extended to allow for negotiations between the parties identified herein;

**WHEREAS**, the parties desire to resolve the cases arising from the violations listed herein without the necessity and cost of further litigation;

**NOW, THEREFORE**, in acknowledgement of the foregoing recitals and in consideration of the promises expressed herein, the parties **HEREBY AGREE** as follows:

### **III. PRIOR AGREED ORDERS**

1. The Petitioners admit that they are in breach of the following Agreed Orders, which were entered prior to this agreement:
  - A. The Infinity Agreed Order resolving numerous violations, which was entered on January 18, 2013;
  - B. The Infinity Agreed Order resolving FOV-44474, which was entered on October 9, 2013;
  - C. The Infinity Agreed Order resolving PAH-44463, which was entered on June 2, 2014;
  - D. The Infinity Agreed Order resolving PAH-44464, which was entered on June 2, 2014;
  - E. The Sequoia Agreed Order resolving numerous violations, which was entered April 1, 2013;
  - F. The Kentucky Fuel Agreed Order resolving FOV-44358-47, which was entered on May 14, 2014;
  - G. The Kentucky Fuel Agreed Order resolving FOV/PAH-44473-47, which was entered May 14, 2014;
  - H. The Kentucky Fuel Agreed Order resolving FOV/PAH-44435-47, which was entered May 14, 2014;
  - I. The Kentucky Fuel Agreed Order resolving FOV/FCO/PAC-44439-47, which was entered June 2, 2014;

- J. The Kentucky Fuel Agreed Order resolving numerous administrative violations, which was entered June 2, 2014;
- K. The Beech Creek and Kentucky Fuel Agreed Order resolving FOV/PAH-44203-047, which was entered March 10, 2014; and
- L. The Virginia Fuel Agreed Order resolving FOV/PAC-44842, which was entered on March 10, 2014.

2. The parties agree that the Agreed Orders listed in Paragraph 1 of this Section shall be superseded by this Agreed Order, and upon date of entry of this Agreed Order, those previous agreements are to be considered null and void.

#### **IV. ADMISSION OF SUBJECT VIOLATIONS**

3. The Petitioners admit to violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 as set out in the following paragraphs.

4. A&G Coal admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 53-3048, NC No. 53-3559, NC No. 53-3583, NC No. 53-3645, NC No. 53-3649, NC No. 53-3652, NC No. 53-3670, NC No. 53-3688, NC No. 53-3847, NC No. 53-3853, CO No. 53-0393, CO No. 53-0394, CO No. 53-0530, CO No. 53-0534, CO No. 53-0550, and CO No. 53-0570.

5. Kentucky Fuel, as approved operator on Beech Creek Permit No. 898-0775, admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 53-1347, NC No. 53-1813, NC No. 53-2038, NC No. 53-2664, NC No. 53-3276, NC No. 53-3282, NC No. 53-3612, NC No. 53-3760, NC No. 53-3761, NC No. 53-3766, NC No. 53-3774, NC No. 53-3789, NC No. 53-3790, NC No. 53-3996, CO No. 53-0078, CO No. 53-0489, CO No. 53-0490 and CO No. 53-0868.

6. Four Star admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 23-1576, NC No. 23-2094, NC No. 23-2099, NC No. 23-2441, NC No. 23-2442, NC No. 23-2443, NC No. 23-2444, NC No. 23-2503, NC No. 23-2521, NC No. 23-2560, NC No. 23-2561, NC No. 23-2564, NC No. 23-2565, NC No. 23-2572, NC No. 23-2573, NC No. 23-2574, NC No. 23-2623, NC No. 23-2711, NC No. 23-2712, NC No. 23-2997, CO No. 23-0038, CO No. 23-0039, CO No. 23-0040, CO No. 23-0041, CO No. 23-0042, CO No. 23-0043, CO No. 23-0044, CO No. 23-0161, CO No. 23-0162, CO No. 23-0163, CO No. 23-0164, and CO No. 23-0311.

7. Greenthorn admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 53-1328, NC No. 53-1775, NC No. 53-2393, NC No. 53-3291, NC No. 53-3381, NC No. 53-3577, CO No. 53-0079, and CO No. 53-0526.

8. Infinity admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 23-0222, NC No. 23-0228, NC No. 23-0229, NC No. 23-0516, NC No. 23-0865, NC No. 23-0934, NC No. 23-0935, NC No. 23-1692, NC No. 23-1729, NC No. 23-1833, NC No. 23-1835, NC No. 23-1880, NC No. 23-1952, NC No. 23-2303, NC No. 23-2305, NC No. 23-2375, NC No. 23-3025, NC No. 23-3026, NC No. 23-3027, NC No. 23-3028, NC No. 23-3029, NC No. 23-3030, NC No. 23-3031, NC No. 23-3032, CO No. 23-0127, CO No. 23-0128, CO No. 23-0137, CO No. 23-0138, CO No. 23-0139, CO No. 23-0140, CO No. 23-0141, CO No. 23-0142, and CO No. 23-0144.

9. Kentucky Fuel admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 43-1046, NC No. 43-1312, NC No. 43-1535 NC No. 43-1591, NC No. 43-1785, NC No. 43-2003, NC No. 43-2008, NC No. 43-2069, NC No. 53-2072, NC No. 43-2190, , NC No. 43-2465, NC No. 43-2721, NC No. 43-2783, NC No. 43-2805, NC No.

43-2815, NC No. 43-2816, NC No. 43-2853, NC No. 43-2858, NC No. 43-2859, NC No. 43-2875, , NC No. 43-2877, NC No. 43-2911, NC No. 43-2912, NC No. 43-2913, NC No. 43-2920, NC No. 43-2924, , NC No. 43-2939, NC No. 43-2942, NC No. 43-2947, NC No. 43-2986, NC No. 43-2992, NC No. 43-2993, NC No. 43-3014, NC No. 43-3058, NC No. 43-3063, NC No. 43-3067, NC No. 43-3068, NC No. 43-3073, NC No. 43-3093, NC No. 43-3095, NC No. 43-3096, NC No. 43-3097, NC No. 43-3098, NC No. 43-3099, NC No. 43-3100, NC No. 43-3106, NC No. 43-3107, NC No. 43-3121, NC No. 43-3122, NC No. 43-3123, NC No. 43-3124, NC No. 43-3128, NC No. 43-3129, NC No. 43-3130, NC No. 43-3131, NC No. 43-3132, NC No. 43-3133, NC No. 43-3153, NC No. 43-3154, NC No. 43-3171, NC No. 43-3195, , NC No. 43-3210, NC No. 43-3211, NC No. 43-3212, NC No. 43-3226, NC No. 43-3227, NC No. 43-3228, NC No. 43-3229, NC No. 43-3230, NC No. 43-3231, NC No. 43-3233, NC No. 43-3234, NC No. 43-3235, NC No. 43-3236, NC No. 43-3248, NC No. 43-3250, NC No. 43-3251, NC No. 43-3272, NC No. 43-3273, NC No. 43-3412, , NC No. 43-3417, NC No. 43-3419, NC No. 43-3420, NC No. 43-3421, NC No. 43-3422, NC No. 43-3423, NC No. 43-3424, NC No. 43-3435, NC No. 43-3539, NC No. 43-3544, NC No. 43-3773, NC No. 53-1346, NC No. 53-2026, NC No. 53-2053, NC No. 53-2056, NC No. 53-2260, NC No. 53-3244, NC No. 53-3278, NC No. 53-3286, NC No. 53-3287, NC No. 53-3288, NC No. 53-3289, NC No. 53-3328, NC No. 53-3378, NC No. 53-3469, NC No. 53-3476, NC No. 53-3532, NC No. 53-3654, NC No. 53-3764, NC No. 53-3765, NC No. 53-3767, NC No. 53-3768, NC No. 53-3769, NC No. 53-3770, NC No. 53-3778, NC No. 63-2024, NC No. 63-2163, NC No. 63-2317, NC No. 63-2318, NC No. 63-2340, NC No. 63-2446, NC No. 63-2447, NC No. 63-2448, NC No. 63-2468, NC No. 63-2512, NC No. 63-2546, NC No. 63-2554, NC No. 63-2579, NC No. 63-2580, NC No. 63-2624, NC No. 63-2640, NC No. 63-2642, NC No. 63-2643, NC

No. 63-2663, NC No. 63-2664, NC No. 63-2707, NC No. 63-2708, NC No. 63-2711, NC No. 63-2712, NC No. 63-2713, NC No. 63-2714, NC No. 63-2772, NC No. 63-2786, CO No. 63-0049, CO No. 43-0017, CO No. 43-0018, CO No. 43-0405, CO No. 43-0407, CO No. 43-0428, , CO No. 43-0429, CO No. 43-0510, CO No. 43-0514, CO No. 43-0569, CO No. 43-0587, CO No. 43-0595, CO No. 43-0620, CO No. 43-0621, CO No. 43-0726, CO No. 43-0727, CO No. 43-0850, CO No. 43-0851, CO No. 43-0859, CO No. 43-0860, CO No. 43-0970, CO No. 43-1037, CO No. 53-0107, CO No. 53-0108, CO No. 53-0109, CO No. 53-0338, CO No. 53-0415, CO No. 53-0416, CO No. 53-0485, CO No. 53-0486, CO No. 53-0487, CO No. 53-0491, CO No. 63-0044, CO No. 63-0045, CO No. 63-0046, CO No. 63-0047, CO No. 63-0048, CO No. 63-0050, CO No. 63-0205, and CO No. 63-2504.

10. Sequoia admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 23-0113, NC No. 23-0392, NC No. 23-0508, NC No. 23-0609, NC No. 23-0610, NC No. 23-0936, NC No. 23-0937, NC No. 23-1064, NC No. 23-1087, NC No. 23-1375, NC No. 23-1388, NC No. 23-1409, NC No. 23-1513, NC No. 23-1531, NC No. 23-1563, NC No. 23-1570, NC No. 23-1582, NC No. 23-1798, NC No. 23-1800, NC No. 23-1809, NC No. 23-1828, NC No. 23-1922, NC No. 23-1935, NC No. 23-1936, NC No. 23-1951, NC No. 23-1961, NC No. 23-1964, NC No. 23-1973, NC No. 23-1974, NC No. 23-1976, NC No. 23-1978, NC No. 23-1992, NC No. 23-1993, NC No. 23-2019, NC No. 23-2020, NC No. 23-2023, NC No. 23-2037, NC No. 23-2039, NC No. 23-2040, NC No. 23-2041, NC No. 23-2046, NC No. 23-2056, NC No. 23-2060, NC No. 23-2075, NC No. 23-2076, NC No. 23-2077, NC No. 23-2078, NC No. 23-2111, NC No. 23-2155, NC No. 23-2164, NC No. 23-2165, NC No. 23-2166, NC No. 23-2167, NC No. 23-2267, NC No. 23-2282, NC No. 23-2283, NC No. 23-2285, NC No. 23-2338, NC No. 23-2339, NC No. 23-2344, NC No. 23-2345, NC No. 23-2346,

NC No. 23-2361, NC No. 23-2365, NC No. 23-2366, NC No. 23-2367, NC No. 23-2378, NC No. 23-2387, NC No. 23-2388, NC No. 23-2463, NC No. 23-2464, NC No. 23-2578, NC No. 23-2598, NC No. 23-2621, NC No. 23-2849, NC No. 23-2850, NC No. 23-2851, NC No. 23-2852, NC No. 23-2853, NC No. 23-2854, NC No. 23-2855, NC No. 23-2857, NC No. 23-2858, NC No. 23-2860, NC No. 23-2861, NC No. 23-2862, NC No. 23-2863, NC No. 23-2864, NC No. 23-2865, NC No. 23-2866, NC No. 23-2927, NC No. 23-2957, NC No. 23-2967, NC No. 23-2993, NC No. 23-2994, NC No. 23-2998, NC No. 23-3050, NC No. 23-3051, NC No. 23-3052, NC No. 23-3053, NC No. 23-3054, NC No. 23-3055, NC No. 23-3056, NC No. 23-3057, NC No. 23-3058, NC No. 23-3059, NC No. 23-3060, NC No. 23-3150, NC No. 23-3151, NC No. 63-0798, NC No. 63-2001, NC No. 63-2326, NC No. 63-2408, NC No. 63-2445, NC No. 63-2508, NC No. 63-2521, NC No. 63-2550, NC No. 63-2558, NC No. 63-2594, NC No. 63-2596, NC No. 63-2597, NC No. 63-2649, NC No. 63-2650, NC No. 63-2668, NC No. 63-2741, NC No. 63-2753, CO No. 23-0031, CO No. 23-0032, CO No. 23-0034, CO No. 23-0035, CO No. 23-0036, CO No. 23-0037, CO No. 23-0045, CO No. 23-0165, CO No. 23-0282, CO No. 23-0368, CO No. 23-0442, CO No. 23-0443, CO No. 23-0444, CO No. 23-0587, CO No. 23-0697, CO No. 23-0698, CO No. 23-0699, CO No. 23-0705, CO No. 23-0706, CO No. 23-0707, CO No. 23-0708, CO No. 23-0709, CO No. 23-0710, CO No. 23-0711, CO No. 23-0712, CO No. 23-0713, CO No. 63-0393, CO No. 63-0440, CO No. 63-0441, CO No. 63-0443, CO No. 63-0497, CO No. 63-0539, CO No. 63-0544, and CO No. 63-0599.

11. Strong Brothers and Kentucky Fuel, as approved operator on Strong Brothers Permit No. 813-0260, admit to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 63-1959, NC No. 63-2025, NC No. 63-2111, NC No. 63-2131, NC No. 63-

2157, NC No. 63-2289, NC No. 63-2641, CO No. 63-0259, CO No. 63-0296, CO No. 63-0297, and CO No. 63-0298.

12. Virginia Fuel admits to the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24 set out in NC No. 23-1395, NC No. 43-2445, NC No. 23-2476, NC No. 23-2741, NC No. 23-2742, NC No. 23-2743, NC No. 23-2744, NC No. 23-2745, NC No. 23-2746, NC No. 23-2747, NC No. 23-2748, NC No. 23-2749, NC No. 23-2750, NC No. 23-2751, NC No. 23-2752, NC No. 23-2753, NC No. 23-2754, NC No. 23-2755, NC No. 23-2756, NC No. 23-2757, NC No. 23-2758, NC No. 23-2760, NC No. 23-2761, NC No. 23-2762, NC No. 23-2763, NC No. 23-2764, NC No. 23-2765, NC No. 23-2973, NC No. 23-2974, NC No. 23-2975, NC No. 23-2976, NC No. 23-2977, NC No. 23-2978, NC No. 23-2979, NC No. 23-2980, NC No. 23-2981, NC No. 23-2982, NC No. 23-2983, NC No. 23-2984, NC No. 23-2985, NC No. 23-2986, NC No. 23-2987, NC No. 23-3011, NC No. 23-3020, NC No. 23-3081, NC No. 23-3082, NC No. 23-3106, NC No. 23-3107, NC No. 23-3108, NC No. 23-3109, NC No. 23-3110, NC No. 23-3111, NC No. 23-3112, NC No. 23-3113, NC No. 23-3114, NC No. 23-3115, NC No. 23-3116, NC No. 23-3117, NC No. 23-3118, NC No. 23-3119, NC No. 23-3120, NC No. 23-3121, NC No. 23-3122, NC No. 23-3123, NC No. 23-3144, NC No. 23-3145, NC No. 23-3146, NC No. 23-3168, NC No. 23-3182, NC No. 23-3183, NC No. 23-3184, NC No. 23-3185, NC No. 23-3186, NC No. 23-3187, NC No. 23-3188, CO No. 23-0497, CO No. 23-0498, CO No. 23-0499, CO No. 23-0500, CO No. 23-0501, CO No. 23-0502, CO No. 23-0503, CO No. 23-0504, CO No. 23-0505, CO No. 23-0506, CO No. 23-0507, CO No. 23-0508, CO No. 23-0509, CO No. 23-0510, CO No. 23-0511, CO No. 23-0660, CO No. 23-0661, CO No. 23-0662, CO No. 23-0663, CO No. 23-0664, CO No. 23-0665, CO No. 23-0666, CO No. 23-0667, CO No. 23-0668, CO No. 23-0669, CO No. 23-0671, NC No. 23-2985, and CO No. 23-0670.

## **V. ABATEMENT OF SUBJECT VIOLATIONS**

13. The Petitioners admit that Justice has failed to perform necessary remedial measures and reclamation work required under KRS Chapter 350 and the regulations promulgated pursuant thereto, and specifically required by the Non-Compliances and Cessation Orders set out in Appendix A: Reclamation Plan and Schedule to this Agreed Order. The Petitioners agree to perform the remedial measures and reclamation work in accordance with the Reclamation Plan and Schedule in Appendix A.

14. The remedial measures and reclamation work set out in Appendix A have been prioritized according to necessity, and the Petitioners agree to perform the remedial measures and reclamation work pursuant to the priority schedule set out in Appendix A. The remedial measures and reclamation work in Appendix A have been grouped into different phases, and the Petitioners agree to fully complete all remedial measures and reclamation work included in each phase by the deadlines set out in Appendix A. Upon the Petitioners' request, the Director of the Division of Mine Reclamation and Enforcement (hereinafter, "DMRE") or the Commissioner of the Department for Natural Resources may, in their reasonable discretion, extend the deadlines set out in Appendix A for good cause. Any request for extension shall be timely made and must be in writing. The Petitioners agree that any request for extension from the Cabinet shall be submitted no less than fourteen (14) days prior to the expiration of the deadline in question, unless the Petitioners can demonstrate good cause for delay.

15. In order to properly and timely perform the remedial measures and reclamation work identified in Appendix A, the Petitioners agree to utilize three (3) dedicated spreads of reclamation equipment, each of which shall be assigned to a particular geographic area pursuant to the conditions of Appendix A. Each reclamation spread shall consist of an excavator (CAT

365B L Series II equivalent or larger, minimum 4 cyd bucket or similar), a long boom excavator, a utility dozer (specifically a CAT D9 equivalent or larger), an articulated truck (CAT 735, equivalent or larger), an operator for each piece of heavy equipment here mentioned, a foreman, and a mechanic, for a total of six personnel employed with each spread. Petitioners shall provide a point of contact for each reclamation spread to the appropriate DMRE Regional Office in the geographic area where the reclamation spread operates.

16. The Petitioners agree to work diligently to complete the reclamation work set out in Appendix A for a minimum of forty (40) hours each week as the weather permits. The Petitioners agree that the reclamation spreads will be fully functioning and adequate to the task of reclamation in accordance with the specific requirements of Appendix A. The Petitioners agree to perform routine maintenance on the equipment in each reclamation spread and to repair or replace any equipment that fails or breaks down within two (2) working days of failure or breakdown.

17. Nothing in this Section and/or Appendix A shall relieve the Petitioners from their legal obligation to perform all work necessary to keep all permits that are subject to this Agreed Order in strict compliance with the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, the terms and requirements of each individual permit, and/or the terms of this Agreed Order. It remains the legal responsibility of the Petitioners to timely abate all present or future violations that are not subject to this Agreed Order and/or Appendix A. The Petitioners agree that the issuance of new violations shall not be a basis for avoiding their obligations under this Agreed Order.

## **VI. NECESSARY PERMITTING ACTIONS**

18. The Petitioners agree to diligently pursue the permitting actions set out in Appendix B: Permitting Action Plan and Schedule to this Agreed Order. Specifically, the Petitioners agree to cause the issuance of permitting actions in accordance with a table and deadline set out in Appendix B. The Petitioners further agree to submit water monitoring related permitting actions and withdraw other permitting actions in accordance with the terms of Appendix B. The Cabinet agrees to check permitting actions for ownership and control compliance at the signing of the Agreed Order and promptly issue those actions if no further outstanding issues are present in accordance with the terms of Appendix B.

19. The Petitioners agree to withdraw the following pending permit determination challenges: PDH-45075 (Sequoia, Permit No. 848-0272, Transfer 02), PDH-44670 (Sequoia, Permit No. 848-7024, Renewal No. 5), and PDH-44673 (Infinity, Permit 848-0283, Renewal No. 1). The Petitioners agree to withdraw these petitions within thirty (30) days of the entry of the Agreed Order.

## **VII. NECESSARY BONDING**

20. The Petitioners agree that the following additional mid-term bonds are required, and are due and payable to the Cabinet:

- A. Kentucky Fuel Permit No. 898-0884, MT-2, in the amount of two million five hundred seventy three thousand two hundred dollars (\$2,573,200);
- B. Kentucky Fuel Permit No. 836-5581, MT-2, in the amount of forty nine thousand one hundred dollars (\$49,100);
- C. Kentucky Fuel Permit No. 860-9016 in the amount of five hundred eight thousand one hundred dollars (\$508,100);
- D. Kentucky Fuel Permit No. 813-7036, MT-6, in the amount of ninety nine thousand five hundred dollars (\$99,500);

- E. Kentucky Fuel Permit No. 860-5351, MT-2, in the amount of fifty six thousand eight hundred dollars (\$56,800);
- F. Kentucky Fuel Permit No. 813-8033, MT-8, in the amount of forty nine thousand two hundred dollars (\$49,200);
- G. Virginia Fuel Permit No. 848-8082, MT-6, in the amount of six hundred eighteen thousand eight hundred dollars (\$618,800);
- H. Virginia Fuel Permit No. 848-9028, MT-8, in the amount of three hundred eighty seven thousand eight hundred dollars (\$387,800);
- I. Four Star Permit No. 848-0249, MT-2, in the amount of four hundred two thousand six hundred dollars (\$402,600);
- J. Four Star Permit No. 848-7027, MT-2, in the amount of two hundred sixteen thousand four hundred dollars (\$216,400);
- K. Sequoia Permit No. 848-9025 in the amount of four hundred seventy nine thousand dollars (\$479,000); and
- L. Kentucky Fuel Permit No. 813-0354 in the amount of sixty thousand three hundred dollars (\$60,300).

21. The Petitioners shall submit the bonds described in Section VII within fifteen (15) days of entry of this Agreed Order in the Office of Administrative Hearings.

### **VIII. SPECIAL PERMIT ISSUES**

22. The parties agree that the permits set out in this section present unique issues and challenges that should be addressed in the body of this Agreed Order. Those permits are as follows:

a. **Infinity Permit Nos. 848-0282 and 848-0283**

23. Permit No. 848-0283 has a considerable amount of open, unreclaimed highwall, which the Cabinet estimates to be approximately 7,000 feet long with an average height of 80 feet. The Permittee, Infinity, is not currently mining Permit No. 848-0283, because of unfavorable market conditions. Infinity has requested postponement of coal removal and

contemporaneous reclamation requirements on Permit No. 848-0283 until the market for 3% sulfur coal improves. The Cabinet agrees to allow Infinity to postpone the time criteria for coal removal and contemporaneous reclamation requirements on Permit No. 848-0283 for a period of six (6) months from the entry of this Agreed Order in the Office of Administrative Hearings, in accordance with the conditions in this section.

24. During the period of postponement, Infinity shall comply with the requirements of 405 KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order, including any reclamation work associated with Permit No. 848-0283 that is included in the Appendix A: Reclamation Plan and Schedule. Infinity shall keep all other performance standards on Permit No. 848-0283 in compliance the requirements of 405 KAR Chapters 7 through 24 and the requirements of the approved permit plan during this period of postponement.

25. Reclamation Contractor. Infinity agrees to hire a reclamation contractor within thirty (30) days of the entry of this Agreed Order in the Office of Administrative Hearings. The reclamation contractor shall perform any abatement or reclamation work associated with Infinity Permit Nos. 848-0282 and 848-0283 that is included in the Appendix A: Reclamation Plan and Schedule. During the period of postponement, the reclamation contractor shall perform all work necessary to keep Permit Nos. 848-0282 and 848-0283 in strict compliance with the requirements of 405 KAR Chapters 7 through 24, the permits, and the terms of this Agreed Order. Infinity shall provide a point of contact for the reclamation contractor to the Director of the Division of Mine Reclamation and Enforcement (hereinafter, “DMRE”).

26. Renewal of Postponement. The postponement of coal removal and contemporaneous reclamation requirements on Permit No. 848-0283 may be renewed upon written application to the Commissioner of the Department for Natural Resources by Infinity for

a period of no more than six (6) months upon a showing of need for additional time, and upon a showing that the area subject to the postponement is in compliance with the requirements of 405 KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order, including any abatement or reclamation work associated with this permit that is included in Appendix A: Reclamation Plan and Schedule. In no case will the postponement extend beyond one and a half years from the entry of the AO.

27. Additional Bonding. Infinity shall provide additional bonding to the Cabinet for the purpose of ensuring the eventual elimination of the open, unreclaimed highwall on Permit No. 848-0283. That additional bonding shall be in the form of a bond or bonds in the total amount of three million dollars (\$3,000,000). Infinity shall submit that additional bonding to the Cabinet within thirty (30) days of entry of this Agreed Order in the Office of Administrative Hearings.

28. Additional Bonding Release. Upon Infinity's application, DMRE shall release six hundred thousand dollars (\$600,000) of the total additional bonding amount for every 1,400 feet of the original 7,000 feet of highwall on Permit No. 848-0283 that is eliminated by mining and/or reclamation, upon verification by the Cabinet that Infinity has eliminated the highwall in strict compliance with KRS Chapter 350, KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order. DMRE shall not release the final six hundred thousand dollars (\$600,000) of additional bonding until DMRE has verified that the original 7,000 feet of highwall is completely eliminated in strict compliance with KRS Chapter 350, KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order.

b. **A & G Permit No. 867-0498.**

29. A&G agrees to eliminate the approximately 2,700 feet of open, unreclaimed highwall on this site within six (6) months of the entry of this Agreed Order in the Office of Administrative Hearings.

30. A&G agrees to put a full spread of equipment on this site to eliminate the open, unreclaimed highwall with mining and/or reclamation activities. This spread of equipment on Permit 867-0498 shall also be responsible for performing any abatement or reclamation work associated with this permit that is included in the Appendix A: Reclamation Plan and Schedule. The spread of equipment on Permit 867-0498 shall be in addition to the spreads of equipment required by Section V of this Agreed Order and in Appendix A. This spread of equipment shall be dedicated to Permit No. 867-0498. This spread of equipment shall include, at a minimum: an excavator (CAT 365B L Series II equivalent or larger, minimum 4 cyd bucket or similar), a long boom excavator, a utility dozer (specifically a CAT D9 equivalent or larger), an articulated truck (CAT 735, equivalent or larger), an operator for each piece of heavy equipment here mentioned, a foreman, and a mechanic, for a total of six personnel employed with each spread. Petitioners shall provide a point of contact for each reclamation spread to the appropriate DMRE Regional Office in the geographic area where the reclamation spread operates.

31. A&G shall provide the Cabinet with monthly updates on the progress of reclamation on the site. These monthly updates shall include an engineering survey establishing the amount of unreclaimed highwall that is being reduced during the mining process. This update shall be provided to the Pikeville Regional Office with copies forwarded to the Director of DMRE by the first day of each month

32. Additional Bonding. A&G shall provide additional bonding to the Cabinet for the purpose of ensuring the eventual elimination of the open, unreclaimed highwall. That additional bonding shall be in the form of a bond or bonds in the total amount of one million, five hundred thousand dollars (\$1,500,000). A&G shall submit that additional bonding to the Cabinet within thirty (30) days of entry of this Agreed Order in the Office of Administrative Hearings.

33. Additional Bonding Release. Upon A&G's application, DMRE shall release three hundred thousand dollars (\$300,000) of the total additional bonding amount for every 540 feet of the original 2,700 feet of highwall that is eliminated, upon verification by the Cabinet that A&G has eliminated the highwall in strict compliance with KRS Chapter 350, KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order. DMRE shall not release the final three hundred thousand dollars (\$300,000) of additional bonding until DMRE has verified that the original 2,700 feet of highwall is completely eliminated in strict compliance with KRS Chapter 350, KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order.

34. The Petitioners agree to withdraw their appeal of the Secretary's Final Order in File Nos. FOV/FCO/PAH-44137 and FOV/FCO-44357 (Franklin Circuit Court case no. 14-CI-00847) and hereby waive any defenses brought in the course of that appeal.

c. **Strong Brothers Permit No. 813-0260**

35. Justice agrees to execute and diligently pursue a successor application to Gulfstream Energy (hereinafter "Gulfstream"), to effectuate the transfer of Permit No. 813-0260 to Gulfstream within thirty (30) days of entry of this Agreed Order in the Office of Administrative Hearings.

36. The Petitioners agree to withdraw their appeal of the Secretary's Final Order in File No. ACC/PAC/PAH/FCO-43377 (Franklin Circuit Court case no. 13-CI-01386) and hereby waive any defenses brought in the course of that appeal.

d. **Kentucky Fuel Permit No. 877-0207**

37. Permit Renewal. The Cabinet shall issue the renewal of Permit No. 877-0207 upon verification by the Cabinet that the Permit application is complete and accurate and in compliance with all requirements of KRS Chapter 350 and 405 KAR Chapters 7 through 24.

38. New Contemporaneous Violations. Any violation for contemporaneous reclamation issued to this permit shall be cause for the Department of Natural Resources to immediately suspend the permit until the violation is abated.

e. **Virginia Fuel Permit No. 848-8082**

39. Additional Bonding. This Permit has 2,500 feet of open, unreclaimed highwall. Virginia Fuel shall provide additional bonding to the Cabinet for the purpose of ensuring the eventual elimination of the open, unreclaimed highwall. That additional bonding shall be in the form of a bond or bonds in the total amount of six hundred thousand dollars (\$600,000). Virginia Fuel shall submit that additional bonding to the Cabinet within thirty (30) days of entry of this Agreed Order in the Office of Administrative Hearings.

40. Additional Bonding Release. Upon Virginia Fuel's application, DMRE shall release one hundred twenty thousand dollars (\$120,000) of the total additional bonding amount for every 500 feet of the original 2,500 feet of highwall that is eliminated, upon verification by the Cabinet that Virginia Fuel has eliminated the highwall in strict compliance with KRS Chapter 350, KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order. DMRE shall not release the final one hundred thousand twenty dollars (\$120,000) of additional bonding until

DMRE has verified that the original 2,500 feet of highwall is completely eliminated in strict compliance with KRS Chapter 350, KAR Chapters 7 through 24, the permit, and the terms of this Agreed Order.

## **IX. PENALTY**

41. Petitioner Sequoia admits that, due to its breach of the previous Agreed Order entered on April 1, 2013 and superseded herein in Section III, the full assessed civil penalties are due and payable to the Cabinet. The Cabinet acknowledges that two hundred four thousand one hundred six dollars (\$204,106) in payments have been made toward that sum.

42. Petitioner Infinity admits that, due to its breach of the previous Agreed Order entered on January 18, 2013 and superseded herein in Section III, the full assessed civil penalties are due and payable to the Cabinet. The Cabinet acknowledges that one hundred fifteen thousand five hundred twenty eight dollars (\$115,528) in payments have been made toward that sum.

43. Petitioner KFC admits that, due to its breach of the previous Agreed Orders entered on March 10, 2014 (Beech Creek Permittee), May 14, 2014 and June 2, 2014 and superseded herein in Section III, the full assessed civil penalties are due and payable to the Cabinet. The parties acknowledge that no payments have been made toward that sum.

44. Petitioner Virginia Fuel admits that, due to its breach of the previous Agreed Order entered on March 10, 2014 and superseded herein in Section III, the full assessed civil penalties are due and payable to the Cabinet. The parties acknowledge that no payments have been made toward that sum.

45. Petitioners Strong Brothers and KFC admit that, due to its breach of a prior letter agreement signed by former Justice Counsel Julie Sharp (see Appendix C) which resolved File

No. ACC/PAC/PAH/FCO-43377, the full assessed civil penalties are due and payable to the Cabinet. The Cabinet acknowledges that one hundred thousand one dollars (\$100,001) in payments have been made toward that sum.

46. Petitioners admit that the total assessed civil penalties of four million nine hundred eighteen thousand six hundred thirty dollars (\$4,918,630) for the violations subject to this agreement are fair and reasonable civil penalties for the violations cited and are not arbitrary or capricious.

47. The Cabinet acknowledges that four hundred nineteen thousand six hundred thirty five dollars (\$419,635) has been made in payments under the superseded Sequoia, Infinity, and Strong Brothers agreements, and thus the total amount of outstanding penalties is four million four hundred ninety eight thousand nine hundred ninety five dollars (\$4,498,995).

48. Petitioners agree to pay and the Cabinet agrees to accept a reduced civil penalty in the amount of one million, five hundred thousand dollars (\$1,500,000). The penalty shall be paid in 30 equal monthly installments of fifty thousand dollars (\$50,000) each with the first installment due the 15<sup>th</sup> of the first full month following entry of this Agreed Order, and each subsequent installment due by the 15<sup>th</sup> of the succeeding months. The Petitioners agree to pay two hundred fifty thousand dollars (\$250,000) with the first installment payment on the 15<sup>th</sup> of the first full month following entry of this Agreed Order. This amount shall represent the final five installment payments under the payment schedule. The Petitioners may substitute an installment payment from this escrowed amount for any payment during the payment schedule with three (3) days written notice to the Cabinet. The Petitioners may only substitute payments on two occasions during the course of the payment schedule. In the event of a late payment,

Petitioners shall incur a penalty of eight (8) percent of the installment per day the payment remains outstanding.

49. The Parties agree that the violations will be used for history points, pattern of violation determinations, or both, pursuant to 405 KAR 7:095 and the Secretary's Orders entered in the above matters.

50. The reduced civil penalties agreed to herein shall be paid by the Petitioners by cashiers' check, certified check, or money order, made payable to the "Kentucky State Treasurer" and sent to the attention of Accounts Receivable, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601.

## **XII. BREACH**

51. Time is of the essence in the implementation of this Agreed Order by the Petitioners and the terms of this Agreed Order are to be strictly construed so as to achieve prompt and complete abatement of violations and payment of civil penalties.

52. Breach of this Agreed Order shall include, but shall not be limited to:

- A. Failure to complete reclamation according to the time frames specified in Appendix A, and to adhere to the reclamation schedule contained therein, unless under an extension granted by the Director of the Division of Mine Reclamation and Enforcement or the Commissioner of the Department for Natural Resources;
- B. Failure to abide by any condition of Appendix A, including but not exclusive to the requirement to provide and utilize three (3) dedicated reclamation spreads according to the terms specified in the body of this Agreed Order and in Appendix A;

- C. Failure to diligently pursue required permitting actions according to the time frames specified in Appendix B, unless under an extension granted by the Director of the Division of Mine Permits or the Commissioner of the Department for Natural Resources;
- D. Failure to post necessary bonding pursuant to the terms of Section VII of this Agreed Order;
- E. Any violation for contemporaneous reclamation issued on any permit listed herein;
- F. Failure to comply with the terms and conditions regarding special permit issues pursuant to Section VIII of this Agreed Order; and/or
- G. Failure to make any monthly installment of the civil penalties agreed to herein.

53. Any action for breach or enforcement of this Agreed Order shall be contingent on the Cabinet giving the Petitioners written notice of the breach of this Agreed Order and an opportunity to cure its breach. The period for cure of any breach under this Agreed Order shall be limited to a period of 14 days from receipt of Notice. This 14 day period may be extended by the Cabinet if the Petitioners are actively pursuing a cure for the breach and requests, in writing, additional time. Notice of breach of this Agreed Order shall be sent by the Cabinet via certified mail, return receipt requested, and via e-mail to:

Billy R. Shelton, Esq.  
Jones, Walters, Turner & Shelton, PLLC  
151 N. Eagle Creek Drive, Suite 310  
Lexington, KY 40509  
[Billys1@jwtslaw.com](mailto:Billys1@jwtslaw.com)

54. In the event that a breach of this Agreed Order is not cured as set forth in Paragraph No. 53 above, the Cabinet shall be entitled to the following relief without notice or hearing:

- A. The imposition of the full civil penalties in the amount of four million four hundred ninety eight thousand nine hundred ninety five dollars (\$4,498,995), the balance of which shall become immediately due and payable, plus interest on the outstanding balance calculated at a rate of 8% per day from the date of breach until payment is received;
- B. The immediate suspension of the following permits by the Division of Mine Permits: 898-0884, 860-0505, 860-8020, 898-0775, 848-0282, 848-0283, 848-8082, and 848-8076, and any other permits which were issued conditioned on the abatement of violations which are subject to this agreement;
- C. All performance bonds posted on permits controlled by Justice that are subject to this Agreed Order shall stand forfeited and will be the subject of demand for payment by the Cabinet to the surety or financial institution providing bond;
- D. Revocation of any permits controlled by Justice that are subject to this Agreed Order, including those permits named in Paragraph 54(B);
- E. The Cabinet shall place a block on the Applicant Violator System and petitioners shall be ineligible to receive other permits or permitting actions or begin other operations until the provisions of KRS 350.130 have been completely satisfied and met; and

F. Petitioners shall be ordered to perform all remedial measures necessary to abate all outstanding violations that are subject to this Agreed Order and to achieve the approved post-mining land use on all permits controlled by Justice that are subject to this Agreed Order.

55. Nothing in Paragraph No. 54 shall limit the Cabinet's ability to seek any and all other relief to which it may appear reasonably entitled in the event that the Petitioners breach this Agreed Order.

56. Failure to complete all remedial measures by September 1, 2015, unless under extension granted by the Director of the Division of Mine Reclamation and Enforcement, the Director of the Division of Mine Permits, or the Commissioner of the Department for Natural Resources, shall result in the imposition of the remedies in Paragraph No. 54 without hearing or notification of breach.

### **XIII. MISCELLANEOUS PROVISIONS**

57. This Agreed Order shall fully and completely resolve any and all of the Petitioners' liabilities, obligations, and responsibilities, including penalties, remediation, reclamation and abatement responsibilities, of any nature or type, in any way related to or arising only out of the subject violations and no other. Furthermore, upon entry of this Agreed Order in the Office of Administrative Hearings, any Secretary's Final Orders previously entered in the case files subject to this Agreed Order shall be superseded by this fully executed Agreed Order.

58. Every time this Agreed Order, or any attachment hereto, provides that a permitting action shall be diligently pursued by the Petitioners, "diligently pursued" shall mean that the Petitioners shall resubmit a corrected permit application within 30 days of notice of a deficiency given by the Cabinet, unless otherwise extended by the Director of the Division of

Mine Reclamation and Enforcement, the Director of the Division of Mine Permits, or the Commissioner of the Department for Natural Resources, which extension shall not be unreasonably withheld.

59. Upon entry of this Agreed Order in the Office of Administrative Hearings, the Petitioners and the Cabinet agree that the Administrative Proceedings bearing file numbers contained within the caption of this Agreed Order shall be dismissed without the need for further motion or order.

60. This Agreed Order pertains to and resolves Justice's liability arising from the Subject Violations described herein and does not pertain to any other Notices of Non-Compliance or Cessation Orders issued to Justice in the past, present, or future.

61. This Agreed Order shall be construed in accordance with the laws of the Commonwealth of Kentucky and shall not be modified except in writing as agreed to by the Petitioners and the Cabinet.

62. This Agreed Order shall be of no force or effect until it is signed by the Secretary of the Cabinet, or his designee.

63. Nothing in this Agreed Order shall be construed to limit the remedies available to the Cabinet by law, including the issuance of cessation orders, bond forfeiture, permit revocation, and continued inspection of the permits which are the subject of this Agreed Order. The Petitioners retain all defenses and the right to challenge any and all such Cabinet remedies and actions.

64. Upon entry of this Agreed Order, the Petitioners waive their rights to administrative or judicial review of the violations and the civil penalties and the remedial measures relating thereto.

65. The terms of this Agreed Order shall be binding upon and inure to the benefit of the parties hereto, and their successors, assigns and receivers.

66. The terms of this Agreed Order shall be enforceable in the Franklin Circuit Court and no other.

#### **XIV. PERSONAL GUARANTY**

67. FOR GOOD AND VALUABLE CONSIDERATION, specifically the terms of this Agreed Order which resolves all pending litigation between the Cabinet and the Justice companies, the undersigned, Jim Justice and Jay Justice (“Guarantors”), unconditionally and irrevocably guarantee to the Kentucky Energy and Environment Cabinet, on the terms set forth in this agreement, the full payment and performance when due, by acceleration or otherwise, of any and all civil penalty obligations that the Justice companies owe the Cabinet through the execution and enforcement of this Agreed Order.

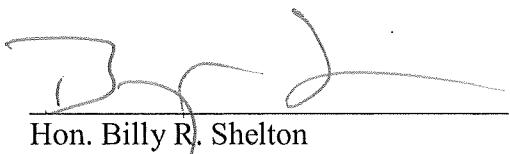
68. In the event the Justice Corporations fail to cure any breach of this Agreed Order as set forth in Paragraph No. 53 above, the Guarantors shall immediately be jointly and personally liable for the outstanding balance of the unreduced civil penalty amount owed by the Justice Corporations, plus interest, as described in Section XII of this agreement. The Guarantors waive any defense based on or arising out of any defense of the Justice companies other than payment in full of the civil penalty amount owed by the Justice companies.

69. The Guarantors agree without demand to reimburse the Cabinet for all costs, attorney fees, and other expenses that the Cabinet expends or incurs in the enforcement of any right relating to this agreement between the Cabinet and the Justice Corporations, including enforcement of remedial and/or bonding obligations and collection of civil penalties owed under this Agreed Order, or in the enforcement of this Guaranty.

70. This Guaranty and the liability and obligations of Guarantors hereunder are binding upon Guarantors and their heirs, executors, and assigns, and inure to the benefit of and are enforceable by the Cabinet. None of the terms or provisions of this Guaranty may be waived, altered, modified, or amended, except by an instrument in writing duly executed by the party to be charged by it. The obligations of the Guarantors shall remain effective and be enforceable regardless of any subsequent change in the form of business organization of the Justice corporations or any change in the composition, nature, personnel or location of the Justice companies. Guarantors agree that a facsimile copy of this Guaranty shall be considered an original and shall be admissible in a court of law to the same extent as the original document.

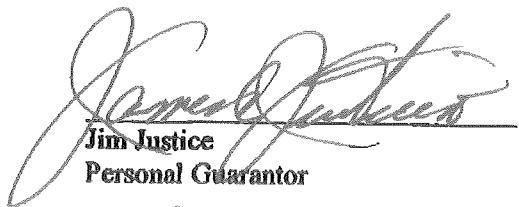
71. This Guaranty and the rights, obligations, and liabilities under it are to be governed by, and are to be construed and interpreted in accordance with, the laws of the State of Kentucky, excluding, however, Kentucky's choice of law choice of law rule for purposes of conflicts of laws. Guarantors agree that exclusive jurisdiction for any legal action or proceeding arising out of or relating to this Guaranty resides in the federal or state courts of the State of Kentucky and Guarantors further agree and expressly consent to the exercise of personal jurisdiction in the State of Kentucky in connection with any dispute or claim involving this Guaranty.

AGREED TO BY:



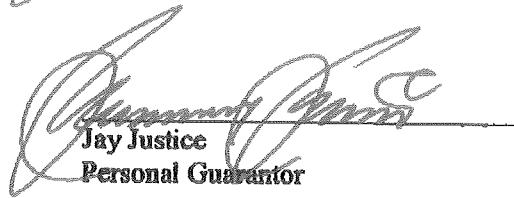
Hon. Billy R. Shelton  
Attorney

Date: 8/14/15



Jim Justice  
Jim Justice  
Personal Guarantor

Date: 8/12/14



Jay Justice  
Jay Justice  
Personal Guarantor

Date: 8/14/14

APPROVAL RECOMMENDED BY:



Anna K. Girard

Hon. Anna K. Girard  
Office of General Counsel  
Department for Natural Resources  
Energy and Environment Cabinet

Date: 8/14/14



Lance C. Huffman

Hon. Lance C. Huffman  
Office of General Counsel  
Department for Natural Resources  
Energy and Environment Cabinet

Date: 8/14/14



Steve Hohmann

Steve Hohmann  
Commissioner  
Department for Natural Resources  
Energy and Environment Cabinet

Date: 8/14/14



C. Michael Haines

Hon. C. Michael Haines  
Executive Director  
Office of General Counsel  
Energy and Environment Cabinet

Date: 8.14.14

HAS SEEN:



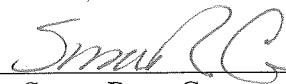
Hon. Robert Layton  
Chief Hearing Officer  
Office of Administrative Hearings  
Energy and Environment Cabinet

Date: 8/14/14



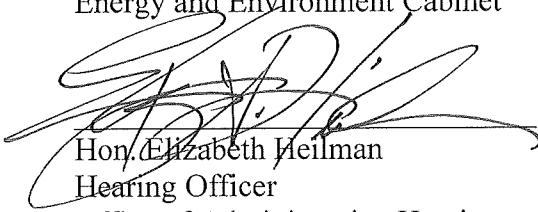
Hon. Steve Blanton  
Hearing Officer  
Office of Administrative Hearings  
Energy and Environment Cabinet

Date: 8/14/14



Hon. Susan Rose Green  
Hearing Officer  
Office of Administrative Hearings  
Energy and Environment Cabinet

Date: 8/14/14



Hon. Elizabeth Heilman  
Hearing Officer  
Office of Administrative Hearings  
Energy and Environment Cabinet

Date: 14 August 2014

**ORDER**

Upon recommendation of the Office of General Counsel and the Department for Natural Resources, Energy and Environment Cabinet, the foregoing AGREED ORDER is hereby entered as a Final Order of the Energy and Environment Cabinet this 14<sup>th</sup> day August, 2014.



LEONARD K. PETERS  
SECRETARY  
ENERGY AND ENVIRONMENT  
CABINET

**CERTIFICATE OF SERVICE**

I hereby certify on this the 15<sup>th</sup> day of August, 2014, true and accurate copies of the foregoing Agreed Order were mailed, postage prepaid, to the following:

Hon. Billy R. Shelton  
Jones, Walters, Turner & Shelton, PLLC  
151 N. Eagle Creek Drive, Suite 310  
Lexington, KY 40509

James C. Justice, II  
James C. Justice, III  
James C. Justice Companies, Inc.  
302 South Jefferson Street  
Roanoke, Virginia 24011

Southern Coal Kentucky Corporation  
Attn: Stephen W. Ball, V.P. Operations  
302 S. Jefferson Street  
Roanoke, VA 24011

A & G Coal Corporation  
Post Office Box 1010  
Wise, Virginia 24293

Beech Creek Coal  
32601 Highway 194 E  
Phelps, Kentucky 41533

Four Star Resources  
Post Office Box 838  
Middlesboro, Kentucky 40965

Greenthorn, LLC  
Post Office Box 340  
London, Kentucky, 40743

Infinity Energy, LLC  
PO Box 838  
Middlesboro, KY40965

Kentucky Fuel Corporation  
Post Office Box 130  
Mousie, Kentucky, 41839

Sequoia Energy, LLC  
Post Office Box 838  
Middlesboro, Kentucky 40965

Sequoia Energy, LLC  
966 KY 990  
Coalgood, Kentucky 40818

Virginia Fuel Corporation  
Post Office Box 3499  
Wise, Virginia 24293,

and hand delivered to:

Hon. Anna K. Girard  
Hon. Lance C. Huffman  
Counsel  
Department for Natural Resources  
Energy and Environment Cabinet  
# 2 Hudson Hollow  
Frankfort, KY 40601

Krisa Booth  
Docket Coordinator

DISTRIBUTION:

Steve Hohmann, Commissioner, Department for Natural Resources  
Billy Ratliff, Director Division of Mine Reclamation and Enforcement  
Allen Luttrell, Director Division of Mine Permits  
Middlesboro Regional Office  
London Regional Office  
Prestonsburg Regional Office  
Pikeville Regional Office

BGD  
SB  
SRG  
EH

## APPENDIX A

### **APPENDIX A: RECLAMATION PLAN AND SCHEDULE**

#### **SECTION I: GENERAL RECLAMATION PROVISIONS**

1. The parties agree that remedial measures are to be completed pursuant to the terms of the Agreed Order, and in accordance with this Reclamation Plan and Schedule.
2. The parties agree that the orders of priority stated in this plan are to be strictly adhered to, unless approval for deviation is granted, in writing, by the Commissioner of the Department for Natural Resources.
3. If priorities for reclamation on a specific permit are not explicitly stated below, the parties agree that Justice may use its discretion on a reclamation plan and order for that permit. However, the Cabinet reserves the right to reassess and evaluate the priorities listed, and may alter its priorities in response to changing conditions, provided it gives Justice written notice.
4. Each reclamation spread listed below shall contain, at minimum:
  - a. an excavator (the equivalent of a CAT 365B L Series II or larger, minimum 4 cyd bucket or similar);
  - b. a long boom excavator;
  - c. a utility dozer (the equivalent of a CAT D9 or larger);
  - d. an articulated truck (the equivalent of a CAT 735 or larger);
  - e. at least six personnel including an operator for each piece of heavy equipment; a foreman, and a mechanic.
5. Each reclamation spread listed below shall have a designated contact person. The name and contact information shall be provided to each DMRE Regional Office which oversees the counties in which the reclamation spread intends to operate no later than one week after date of entry of this Agreed Order. In the event that the contact person for the spread changes, Justice agrees to report the change, and provide new contact information, to the appropriate DMRE Regional Office within three (3) days of the change.
6. Each reclamation spread must be in operation for forty (40) hours each week, weather permitting.
7. Justice is required to perform routine maintenance on each spread, and must repair and/or replace any failed machinery within two (2) working days of failure or breakdown.

#### **SECTION II: EQUIPMENT SPREAD PLAN AND PRIORITIES**

##### **Equipment Spread A: Harlan/Leslie/Breathitt**

London and Middlesboro Regional Offices

###### **Order of Priority:**

A. Harlan County Permits as follows:

1. Sequoia 848-0270
  - First Priority: abatement of NC 23-1064/CO23-0036 CR for time. 2,700 feet of wall.
  - Second Priority: abatement of NC 23-1964/CO23-0045 CR for time. 2,700 feet of wall.
  - Third Priority: abatement of NC 23-2625 Clean out ponds or remove. Ponds are approved for removal.
2. Sequoia 848-9025

## APPENDIX A

First Priority: abatement of NC 23-2339/CO-23-0705 - Construct and maintain the John's Branch refuse fill according to designs. Construct ponds and diversions for Amendment 3.

Second Priority: abatement of NC 23-2388/CO-23-0711- Install permit sign, perimeter markers & temporary sediment control. Stabilize, seed, and mulch slides.

### 3. Sequoia 866-5152

First Priority: abatement of NC 63-0798 FTACO 63-0440 - Permittee needs to address a bad decant issue with their Coal Slurry Impoundment.

### 4. Sequoia 848-0274

First Priority: abatement of NC 23-2365/CO 23-0697- Stabilize, seed & mulch slides, gully erosion & slumping, repair ponds & Road E.

### 5. Sequoia 848-5459

First Priority: abatement of NC 23-2367/CO 23-0709 - Reclaim face-up to AOC.

### 6. Sequoia 848-5485

First Priority: abatement of NC 23-2285/CO 23-0707 - Stabilize, seed, and mulch slide areas.

### 7. Sequoia 848-7027

First Priority: abatement of NC 23-2623 - Repair and replace road culverts.

### 8. Virginia Fuel 848-8082

First Priority: abatement of NC 23-2455/CO 23-0668 - approximately 2,500 feet of wall.

Second Priority: abatement of NC 23-2757/CO 23-0662 - Construct pond as designed and certify.

### 9. Virginia Fuel 848-5512

First Priority: abatement of NC 23-3011 Reclaim deep mine face-up.

### 10. Virginia Fuel 848-5510

First Priority: abatement of NC 23-3189 - Reclaim 3 deep mine face-ups.

### 11. Virginia Fuel 848-0316

First Priority: abatement of NC 23-2766/CO-23-0665 - Repair principal s pillway pipe.

### 12. Four Star 848-0249

First Priority: abatement of NC 23-2564/CO23-0164 - Has approximately 1,900 feet of wall.

Second Priority: abatement of CO 23-0311 - Off-permit disturbance needs reclaimed.

Third Priority: abatement of CO 23-0161 - Diversions need repaired.

**DEADLINE: All remedial measures must be completed by July 1, 2015.**

B. Breathitt County Permits as follows:

### 1. Kentucky Fuel 813-0354

First Priority: abatement of NC 63-2643- Permittee needs to repair Haul Road #2, backfill and grade trenching sites, seed and mulch affected areas

## APPENDIX A

and place alternate sediment control for affected areas. Repair General Hydrologic areas (erosion from Haul Road #2), seed and mulch.

2. Kentucky Fuel 813-0363

First Priority: FP: RV - Ensure to seed and mulch hot areas located on the disturbed areas of the permit.

Second Priority: FP: BG – Rills and gulleys along Fill areas of HF 44A and HF 45 are beginning to form and attention will need to be addressed in the very near future.

Third Priority: FP: PL - Ensure to follow PMLU as per the approved application.

**DEADLINE: All remedial measures must be completed by September 1, 2015.**

**Equipment Spread B: Pike**

Pikeville Regional Office

Order of Priority:

A. Kentucky Fuel Permits

1. Permit No. 898-0884

First Priority: abatement of NC 53-3654 - (CR) Company has exceeded time limits specified in the approved permit application to complete Backfilling and Grading to approximate original contour in the Elkhorn and Fireclay coal seams from the location of Pond #3 in Road Branch of Bevins Branch along the Eastern side traveling North into Road Fork towards Hollowfill 2-3. Also from Pond #3, areas into Main Bevins Branch on the Northeastern side extending to proposed Hollowfill #5-6 on these coal seam levels. These areas are on increments #3, 4, & 10.

Second Priority: abatement of NC 53-3654 - (WQ) Permittee has allowed water to leave permitted area without first passing through an approved sediment control structure associated with diversion BP30-D1 for which are not constructed as designed.

Third Priority: NC 53-3654 - (SC) Permittee failed to construct pond 30.

Fourth Priority: NC 53-3654 - Sediment level in BP 27 has exceeded the approved elevation as in the permit plan.

Fifth Priority: NC 53-3654 - (DV) Permittee has failed to construct diversion # BP30-D1.

Sixth Priority: NC 53-3654 - (DS) (A) Dumping performed in hollow fill 2-3 has the potential to impound water. (B) Instability and gullies on the face of hollow fill 9. (C) An unstable area in Hollow Fill #9. (D) Permittee allowed surface water to flow through the under drain of Hollow fill 9.

Seventh Priority: NC 53-3654 - (BG) Slumpage, rills, and gullies across from hollow fill 10. Company has allowed high wall to be exposed in excess of three (3) feet in various areas on increment #2 on both sides of Swamp Branch on the Elkhorn Coal Seam level. 2) On increment #16 on the Winifrede Coal Seam level a small depression has formed an holding

## APPENDIX A

water.3) On increments #2,&7 in Swamp Branch and increment #3 & 10 in Road Branch on the Elkhorn and Fireclay coal seam levels in various locations rills and gullies in excess of 9 inches have formed causing erosion.

Eighth Priority: abatement of NC53-3654 - (OD) Violation #3 (OD) (A) An off-permit disturbance located Southwest of hollow fill #1. (B) Permittee has allowed a large rock to move beyond the permit boundary northwest of bench pond #8.

Ninth Priority: abatement of NC 53-3654 - (SS) Permittee has allowed materials to remain on the downslope in areas Northwest of Pond #29 and East of Pond#28.

### 2. Permit No. 898-0882

First Priority: abatement of NC 53-1346 - Remove sediment from sedimentation structure 2 & dispose as per approved plan.

Second Priority: abatement of NC 53-3778

Permittee shall reclaim area Located as follows –

1. Approximately 100 feet Northeast from Pond 26 thence approximately 200 feet Northwest. On Increment #1
2. Approximately 800 feet Northwest from Pond 23 thence approximately 1100 feet Northeast. On Increments #1 and #2.
3. Approximately 1400' North West from HF 5 at the permit edge thence approximately 800' North East to the corner of surface tract 35 thence approximately 500' North West. On Increment # 3
4. Approximately 600' South West from HF-1 thence approximately 400' North West. On Increment 3
5. Approximately 750' South West form HF-1 thence approximately 400' North West to the Northern corner of surface tract 35 thence approximately 350' South West thence 650' South West. On Increment # 3
6. Approximately 700' North West from the Southern corner of surface tract 16 thence approximately 500' North West near the outcrop on Increment # 3 to conform to the time frame specified in the approved reclamation plan and 405 KAR 16:020. Permittee must seed and mulch all affected area.

### 3. Permit No. 898-0883

First Priority: abatement of NC 53-3288/FTACO 53-0108 - SC remove sediment from sedimentation structure 18 & dispose as per approved plans.

Second Priority: abatement of NC 53-3286 - CR – return adequate equipment for backfilling and grading to the permit area.

Third Priority: abatement of NC 53-2053 - HR stabilize, seed & mulch area below Pond 11 spillway where erosion has occurred.

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Fourth Priority: SC-(1) Follow the approved drainage plans for the areas of Sediment Ponds 3, 4, 5, 6, 14, 15, 16, 18, 19 and 20. If the approved drainage plan cannot be implemented as proposed, then obtain issuance of a revision that will allow an alternate sediment control plan to be utilized for the areas of Sediment Ponds 3, 4, 5, 6, 14, 15, 16, 18, 19 and 20. (2) Either, construct Ponds 5, 7, and 8 to approved plans, and submit certifications of construction or obtain issuance of a revision that would allow alternate designs or plans to be implemented.

Fifth Priority: HR- Cease creating any new disturbances in the watersheds above sediment structures 3, 4, 5, 6, 14, 15, 16, 18, 19, and 20, until the drainage areas above sediment structures 3, 4, 5, 6, 14, 15, 16, 18, 19, and 20 have been backfilled, graded, seeded, and vegetation established, which complies with the approved model used for the design and function of sediment structures 3, 4, 5, 6, 14, 15, 16, 18, 19, and 20.

Sixth Priority: DS- Construct hollow fill #1 as per approved designs. Construct necessary drainage facilities approved plan, and grade fill to achieve positive drainage approved plan.

**DEADLINE: All remedial measures must be completed by July 1, 2015. Work to abate NC 53-3654 must begin immediately after entry of the Agreed Order.**

B. Beech Creek Permit No. 898-0775

First Priority: abatement of NC 53-3776 – Highwall west of Pond 7 needs to be reclaimed and ponds east of Pond 10 to be constructed and certified as mining advances.

Second Priority: abatement of NC 53-3996 - Area needs stabilized, seeded and mulched and brought under permit.

Third Priority: abatement of NC 53-3996 - Windrow East of Pond 10 needs spoil removed from it.

**DEADLINE: All remedial measures must be completed by September 1, 2015.**

### **Equipment Spread C: Knott/Floyd**

Prestonsburg Regional Office

Order of Priority:

A. Knott County Kentucky Fuel Permits:

1. Permit No. 860-0505

First Priority: KAR 16:020 - Permittee shall reclaim areas: 1) From approximate area east of DO#24 to area adjacent to proposed DO#26 on Increment 7. 2) All disturbed area of mining on Increment 9. 3) Approximate 360 feet of highwall southwest of HF#6 on Increment 6. 4) All disturbed area of Area Mining on increment 10, to conform to the time frame specified in the approved reclamation plan and 405 KAR 16:020.

## APPENDIX A

Second Priority: KAR 16:130 - Repair surface diversions of HF#7 according to approved permit plans and revegetate/rip-rap areas as required. Clean-out area between HF#7 core drain discharge and rock check area. Ensure underground core drain of HF#7 is exposed and free-flowing. Repair/construct surface diversions of Hollow Fill HF#6 and revegetate/rip-rap areas as required.

Third Priority: KAR 16:090 - Repair erosion of emergency spillway and ensure embankment is stabilized, and re-certify SS#7, revegetate and rock-line areas as required. Remove or cut woody vegetative growth on embankment area, spillways area and emergency spillway area.

Fourth Priority: KAR 16:190 - Regrade, fill, or otherwise stabilize the rills and gullies; seed and mulch all disturbed areas on Increments 6 and 7. Regrade, stabilize, seed, and mulch slippage of backfilled highwall on Increment 6 and 7 in the backfill area.

Fifth Priority: Reconstruct SS#3 according to approved permit plans and re-certify OR submit a permitting action (within 30 days) with a revised design reflecting the as-built configuration.

Sixth Priority: KAR 16:200 - Permittee shall comply with the approved revegetation plan specified in the permit. Revegetate all graded backfill on Increments 6 and 7.

Seventh Priority: Complete construction of DO#17.

Eighth Priority: Remove or cut woody vegetative growth on embankment area, and all spillway areas.

### 2. Permit No. 860-5349

First Priority: abatement of NC 43-2939/CO43-0510(SC) Pond#2 needs to be damped.

### 3. Permit No. 860-5345

First Priority: abatement of NC 43-3412 - KAR 18:020 - Permittee shall reclaim areas on increments 1, 2, 3 and 4 to conform to the time frame specified in the approved reclamation plan and 405 KAR 18:020.

### 4. Permit No. 860-0504

Address FP statements in this order:

First Priority: Grade and revegetate areas of slippage and/or erosion in backfill.

Second Priority: Maintain Access Roads culverts and durable road surface.

Third Priority: Perform general maintenance of sediment structures – cleanout, spillways, and emergency spillways, remove woody vegetation on embankment.

### 5. Permit No. 860-5342

Address FP statements in this order:

First Priority: Grade and revegetate areas of slippage and/or erosion in backfill.

Second Priority: Maintain Access Roads culverts and durable road surface.

## APPENDIX A

Third Priority: Perform general maintenance of sediment structures – cleanout, spillways, and emergency spillways, remove woody vegetation on embankment.

6. Permit No. 860-5350

Address FP statement: Maintain backfilled face-up area; eliminate slumping and erosion areas.

7. Permit No. 860-5580

8. Permit No. 860-5338

First Priority: FP: (AC) Ensure all haul roads and access roads are monitored and maintained as per approved permit application.

Second Priority: FP: (DV) Ensure all diversions are monitored and maintained as per approved permit application.

9. Permit No. 860-5341

Address FP statement: Perform general maintenance of diversion ditches

10. Permit No. 860-5344

First Priority: FP: (BG) Ensure all backfills are monitored and maintained as per approved application.

Second Priority: FP: (DV) Ensure all diversions are monitored & maintained as per approved application.

11. Permit No. 860-5351

First Priority: Maintain access road culverts.

Second Priority: Check sediment structures for cleanout.

12. Permit No. 860-9015

Address FP statement: AC Ensure all access roads are maintained in compliance with all provisions of the permit.

13. Permit No. 860-9016

First Priority: FP: RV Ensure that all areas of the downstream face exhibit substantial vegetative growth.

Second Priority: FP: AC Ensure that all access roads are maintained in compliance with the approved permit.

**DEADLINE: All remedial measures must be completed by July 1, 2015.**

B. Floyd County Kentucky Fuel Permits

1. Permit No. 836-5581

First Priority: FP: (CR) Ensure adequate equipment is moved back on site to commence final reclamation.

Second Priority: FP: (BG) Ensure the backfill along the face-up area has been properly graded as per approved permit application.

Third Priority: FP: (RV) Ensure all backfills are seeded, establish proper vegetative cover as per approved permit application

2. Permit No. 836-5580

First Priority: FP: (SC) Ensure all principle and emergency spillways are monitored and maintained as per approved permit application.

## APPENDIX A

### 3. Permit No. 836-8070

First Priority: FP: (WQ) Ensure all surface drainage is diverted to approved sediment structures.

Second Priority: FP: (RV) Ensure proper vegetation is established throughout the entire permitted area as set forth by the approved permit application.

Third Priority: FP: (OM) Ensure toxic materials are handled according to the approved permit application.

Fourth Priority: FP: (EL) Monitor sediment structure effluent to maintain water quality standards.

**DEADLINE: All remedial measures must be completed by September 1, 2015.**

## SECTION III: SPECIAL PERMIT ISSUES

**Please note that the three permits in this section is not in order of priority. The issues on the following permits should be dealt with concurrently and by the noted deadlines.**

### A&G Coal 867-0498

First Priority: Return a mining spread of equipment to the permit. The equipment spread on Permit 867-0498 shall be in addition to the other spreads of equipment required by Section I and shall be dedicated to Permit No. 867-0498. This equipment spread is also to be used to abate other violations on the site.

**DEADLINE: 15 days from entry of the Agreed Order**

Second Priority: Eliminate the highwall cited in NC 53-3559 by mining and/or reclamation.

**DEADLINE: March 1, 2015.**

Third Priority: abatement of NC 53-3645/CO 53-0534 - Gully erosion, construct pond

Fourth Priority: abatement of NC 53-3652/CO 53-0550 - Gully erosion

**DEADLINE: June 1, 2015.**

A&G is required to provide monthly updates on the progress of reclamation on the site to the Pikeville Regional Office and the Director of DMRE which include an engineering survey establishing the amount of unreclaimed highwall that is being reduced.

### Infinity 848-0282 (848-0234) and 848-0283 (848-0264)

First Priority: Hire a reclamation contractor to abate all outstanding violations on the permits other than the CR violation listed.

## APPENDIX A

**DEADLINE: 30 days from entry of Agreed Order**

The following NCs and COs must be abated:

1. NC 23-0516/CO 23-0141
2. NC 23-0865/CO 23-0128
3. NC 23-0228/CO 23-0142
4. NC 23-1692/CO 23-0127 (OD violation only)

**DEADLINE: March 1, 2015.**

Second Priority: By the terms of the Agreed Order, a 6 month postponement was granted for abatement of the CR violation cited in NC 23-1692/23-0127. At 6 months, the Cabinet will review the postponement and may extend for good cause, or decline to extend. When the postponement expires, the following requirements are triggered:

1. Return sufficient equipment to the permit to eliminate highwall.

**DEADLINE: 30 days from notice of expiration of postponement.**

2. Eliminate all highwall by mining and/or reclamation.

**DEADLINE: 6 months from notice of expiration of postponement.**

**Kentucky Fuel Permit No. 877-0207**

Continue to backfill, grade and revegetate to maintain contemporaneous reclamation standards for time. This is an ongoing obligation.

## APPENDIX B: PERMITTING ACTION PLAN AND SCHEDULE

The following spreadsheet depicts the remaining pending permitting actions. These actions must be diligently pursued to issuance within six (6) months of the entry of the Agreed Order:

ID	COMPANY	APPLICATION_NUMBER	TYPE	SEQ	RECEIVED	STATUS	ST_DATE	MINE_STATU S_CODE
013824	A & G Coal Corporation	8670498	MI	5	7/9/2012	STO	5/8/2014	SP
013738	Four Star Resources Llc	8480249	MI	3	1/7/2014	ACR	3/21/2014	A1
013738	Four Star Resources Llc	8487027	MI	2	3/11/2013 14:54	STO	5/7/2014	SP
013436	Infinity Energy, Inc	8480283	MI	9	2/12/2013	STO	5/14/2014	A2
013962	Kentucky Fuel Corporation	8130354	MI	1	6/12/2013	STO	8/12/2013	A1
013962	Kentucky Fuel Corporation	8138028	MT	6	6/25/2014	ASN	6/25/2014	A1
013962	Kentucky Fuel Corporation	8138032	RN	6	5/2/2014	POS	6/5/2014	SP
013962	Kentucky Fuel Corporation	8138033	RN	6	5/12/2014	POS	6/5/2014	O2
013962	Kentucky Fuel Corporation	8600503	MA	5	5/8/2013	ACR	5/13/2014	P1
013962	Kentucky Fuel Corporation	8605339	MI	5	3/27/2014	TWW	5/19/2014	A1
013962	Kentucky Fuel Corporation	8605349	MI	7	4/21/2014 11:38	TWW	6/5/2014	O2
013962	Kentucky Fuel Corporation	8605349	RN	2	2/19/2013	30D	5/29/2014	O2
013962	Kentucky Fuel Corporation	8607013	MT	2	6/26/2013	MMS	5/27/2014	A2
013962	Kentucky Fuel Corporation	8609016	RN	3	12/9/2013	TWW	5/19/2014	A1
013962	Kentucky Fuel Corporation	8980881	MI	5	11/4/2013	ACR	4/15/2014	A2
013962	Kentucky Fuel Corporation	8980882	MT	4	1/3/2014	MMS	4/4/2014	A1
013962	Kentucky Fuel Corporation	8980882	MI	8	12/20/2012	TRS	7/21/2014	A1
013962	Kentucky Fuel Corporation	8980882	MI	9	7/17/2014	AOR	7/18/2014	A1
013962	Kentucky Fuel Corporation	8980883	MI	7	11/4/2013	ACR	6/5/2014	A1
013962	Kentucky Fuel Corporation	8980884	MI	5	5/17/2012	TWW	7/10/2014	AP
013962	Kentucky Fuel Corporation	8980884	MI	6	11/1/2013	ACR	4/16/2014	AP
013495	Sequoia Energy LLC	8480270	RN	2	6/8/2012	TWW	4/8/2014	A1
013495	Sequoia Energy LLC	8480274	MI	3	3/27/2014	ACR	5/7/2014	A2
013495	Sequoia Energy LLC	8485459	RN	4	12/10/2013	TWW	4/7/2014	A2
013495	Sequoia Energy LLC	8485462	FR	1	5/21/2013	FAC	6/25/2014	O1
013495	Sequoia Energy LLC	8485463	RN	2	2/28/2014	TRS	7/18/2014	A1
013495	Sequoia Energy LLC	8485466	RN	1	1/3/2013	TWW	7/1/2013	A2
013495	Sequoia Energy LLC	8485485	MI	2	3/27/2014 11:27	TWW	5/15/2014	A1
013495	Sequoia Energy LLC	8487024	RN	5	6/25/2012	TAC	3/19/2014	A1
013495	LCSequoia Energy LLC	8488076	MT	5	2/20/2014	MMS	7/7/2014	A1
013495	Sequoia Energy LLC	8489025	MI	7	3/19/2013	TWW	6/9/2014	A1
013495	Sequoia Energy LLC	8665152	MI	8	3/27/2014	TWW	4/30/2014	A2
014985	Virginia Fuel Corporation	8480315	MA	16	6/29/2011	ACR	4/9/2014	A2
014985	Virginia Fuel Corporation	8480316	MI	9	11/10/2011	TWW	3/31/2014	A2
014985	Virginia Fuel Corporation	8480316	MT	3	2/28/2013	MMS	8/7/2013	A2
014985	Virginia Fuel Corporation	8485505	RN	6	1/14/2014	POS	3/26/2014	A1
014985	Virginia Fuel Corporation	8485508	RN	6	4/3/2014	TWW	5/9/2014	A1
014985	Virginia Fuel Corporation	8485512	MI	3	8/21/2012	POS	8/28/2012	A2
014985	Virginia Fuel Corporation	8485512	RN	3	11/27/2013	ARA	12/9/2013	A2
014985	Virginia Fuel Corporation	8487036	RN	4	8/15/2012	TWW	4/4/2014	SP
014985	Virginia Fuel Corporation	8488082	MI	11	8/9/2012	TWW	4/1/2014	A1
014985	Virginia Fuel Corporation	8488082	RN	6	5/5/2014	POS	5/13/2014	A1
014985	Virginia Fuel Corporation	8489028	RN	6	5/5/2014	TWW	5/12/2014	A1

## APPENDIX B

The following permitting actions should be assessed by Justice and an appropriate response made **within 15 days of the entry of the Agreed Order:**

- A & G Coal Corp. 848-0287 NW
- A & G Coal Corp 848-5465 NW
- Kentucky Fuel Corp. 860-8020 OPR 2
- Kentucky Fuel Corp. 860-9015 OPR 2
- Kentucky Fuel Corp. 860-9016 OPR 2
- Sequoia Energy LLC 848-0224 NW
- Sequoia Energy LLC 848-0288 NW

The following permitting action should be withdrawn and a new revision to address off-permit disturbance issues submitted **within 15 days of the date of entry of the Agreed Order:**

- Sequoia Energy LLC 848-0270 AM 7

The following permitting actions will be checked for O&C compliance at the signing of the Agreed Order and issued, if no further outstanding issues are present:

- Infinity 848-0283 RN-1
- Kentucky Fuel 860-5351 RN-6
- Kentucky Fuel 877-0207 RN-1
- Kentucky Fuel 898-0882 RN-3
- Sequoia 848-0274 RN-2
- Kentucky Fuel Corp. 860-0505 AM 1
- Kentucky Fuel Corp. 877-0207 AM 2

## APPENDIX B

**MONITORING WELLS.** Justice must address the following well monitoring deficiencies by submitting permitting actions **within 30 days of the entry of the Agreed Order:**

- Permit No. 860-0502 – GW 157-200, GW-2, GW-3, GW-4
- Permit No. 860-0503 – GWMP 1
- Permit No. 860-0504 – SGW-092P, GW-160, GW-2, GW-3, GW-6
- Permit No. 860-5339 – WW-2, WW-3, SGW-073P
- Permit No. 860-5340 – WW-2, WW-3
- Permit No. 860-5341 – GW-G157, GW 2, GW 3, GW-G100
- Permit No. 860-5342 – GW-140, GW-160, GW-G100
- Permit No. 860-5343 – GW-1, GW-2, GW-3, GW-4
- Permit No. 860-5345 – GW-1, GW-2, GW-7, GW-099P
- Permit No. 860-5347 – WW 2
- Permit No. 860-8020 – WW 3

## **APPENDIX C**



# BOEHL STOPHER & GRAVES LLP

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TELEPHONE: 606-432-9670  
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January 29, 2014

Hon. S. Bradford Smock  
Office of General Counsel  
#2 Hudson Hollow  
Frankfort, Kentucky 40601

**RE: Strong Bros. Mining and Kentucky Fuel Corp. v. Energy and Environment Cabinet,  
Franklin Circuit Court, 13-CI-1386  
Administrative File - FOV/FCO/PAH 43377**

Dear Mr. Smock,

Please accept this letter as written confirmation of our phone conversations and emails regarding the agreements reached in the above referenced claim. You have agreed to pass the Cabinet's Motion to Dismiss set for hearing in Franklin Circuit Court on January 29, 2014 contingent upon these agreed to terms. First, Kentucky Fuel agrees to pay the sum total of \$100,001.00, to satisfy the civil penalties in only the matter referenced above. Said amount will be payable in four (4) equal monthly installments beginning March 15, 2014, with the final payment being due on or before June 15, 2014. Second, Kentucky Fuel agrees to diligently pursue the transfer of permit, to GulfStream. Diligent pursuit, as used herein, means should any deficiencies in the application process be brought to the attention of Kentucky Fuel, Kentucky Fuel will rectify those deficiencies and return amended documents the cabinet within ten (10) days of said notice. Third, in the event that said transfer is not issued, Kentucky Fuel acknowledges and accepts that it will be responsible for the total amount of civil penalties applicable to the above referenced matter, a total of \$139,500.00. This total would be due on June 15, 2014. All payments previously made towards agreement would be applied towards this balance.

Once Kentucky Fuels satisfies the terms herein regarding the payment of \$100,001.00 in civil penalties and successfully transfers the permit which is the subject of the above actions, any and all disputes subject of the above-referenced civil case will be dismissed as will the administrative order dated October 29, 2013, appealed in the subject circuit court case. This letter of agreement is intended to be binding on the parties as though it were a written contract/agreement.

This letter represents the totality of the agreement between the parties Kentucky Fuel Corporation, Strong Bros. Mining and the Energy and Environment Cabinet.

Sincerely,

  
Hon. Julie Ann Sharp

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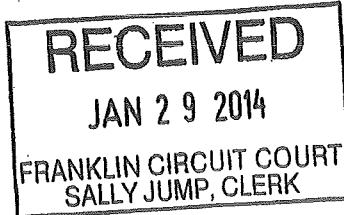
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COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION NO. II  
CIVIL ACTION NO. 13-CI-01386



STRONG BROS. MINING, PERMITTEE  
AND KENTUCKY FUEL CORPORATION, OPERATOR

PETITIONERS

VS.

AGREED ORDER

ENERGY AND ENVIRONMENT CABINET

RESPONDENT

\* \* \* \* \*

Come the Respondent/Movant, Energy and Environment Cabinet, and the Petitioners, Strong Bros. Mining (Permittee) and Kentucky Fuel Corporation (Operator), by counsel, and hereby agree to pass Respondent's pending Motion to Dismiss on this Court's Docket until such time as it is re-noticed for hearing by said Respondent/Movant.

So ordered this the 29 day of Jan, 2014.

HON. THOMAS WINGATE, JUDGE  
FRANKLIN CIRCUIT COURT, DIVISION NO. II

HAVE SEEN:

S. Bradford Smock  
S. Bradford Smock, Counsel for Respondent

1/28/14  
Date

Julie Ann Sharp  
Julie Ann Sharp, Counsel for Petitioners

1/28/14  
Date

CLERK'S CERTIFICATE

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the  
above entered Order was mailed to the following counsel of record:

S. Bradford Smock  
Office of General Counsel  
#2 Hudson Hollow  
Frankfort, KY 40601

Julie Ann Sharp  
Boehl, Stopher & Graves, LLP  
P.O. Box 1139  
Pikeville, KY 41502-1139

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FRANKLIN CIRCUIT CLERK